



HOUSE BILL No. 5035

September 13, 1995, Introduced by Reps. Ryan, Bush, Hill, Rocca, Kukuk, Jersevic, Green, Middaugh, Horton, Kaza, Jaye, McBryde, Pitoniak, Hammerstrom, London, Bullard, Profit, Jellema, Bodem, Gnodtke, Goschka, Voorhees, Anthony, Sikkema, Rhead, Law, Cropsey, Johnson, Dolan, Dobb, Gernaat, Dobronski, Palamara, Gustafson, Galloway and Llewellyn and referred to the Committee on Judiciary and Civil Rights.

A bill to amend the title and sections 2, 6, 8, 11, 31, 33, 33b, 33d, 33e, 34, 34a, 35, 36, 36a, 37, 38, 39, 39a, 40a, 41, 42, 43, 44, 45, 46, 64, 65, 65a, 65d, and 65g 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 2 as amended by Act No. 79 of the Public Acts of 1987, section 6 as amended by Act No. 271 of the Public Acts of 1986, section 31 as amended and sections 39a and 46 as added by Act No. 314 of the Public Acts of 1982, sections 33, 33b, 35, 37, 38, 65, and 65a as amended by Act No. 217 of the Public Acts of 1994, section 33d as amended by Act No. 164 of the Public Acts of 1994, section 33e as added and section 44 as amended by Act No. 181 of the Public Acts of 1992, section 34 as amended by Act No. 345 of the Public Acts of 1994, section 34a as amended by Act No. 427 of the Public Acts of 1994, section 36 as amended by Act No. 287 of the Public Acts of 1994, sections 36a and 40a as amended by Act No. 346 of the Public Acts of 1993, section 39 as amended by Act No. 293 of the Public Acts of 1988, section 65d as added by Act No. 401 of the Public Acts of 1988, and section 65g as added by Act No. 353 of the Public Acts of 1990, being sections 791.202, 791.206, 791.208, 791.211, 791.231, 791.233, 791.233b, 791.233d, 791.233e, 791.234, 791.234a, 791.235, 791.236, 791.236a, 791.237, 791.238, 791.239, 791.239a, 791.240a, 791.241, 791.242, 791.243, 791.244, 791.245, 791.246, 791.264, 791.265, 791.265a, 791.265d, and 791.265g of the Michigan Compiled Laws; to add sections 31b and 34b; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 2, 6, 8, 11, 31, 33, 33b,
2 33d, 33e, 34, 34a, 35, 36, 36a, 37, 38, 39, 39a, 40a, 41, 42, 43,
3 44, 45, 46, 64, 65, 65a, 65d, and 65g of Act No. 232 of the
4 Public Acts of 1953, section 2 as amended by Act No. 79 of the
5 Public Acts of 1987, section 6 as amended by Act No. 271 of the

1 Public Acts of 1986, section 31 as amended and sections 39a and
2 46 as added by Act No. 314 of the Public Acts of 1982, sections
3 33, 33b, 35, 37, 38, 65, and 65a as amended by Act No. 217 of the
4 Public Acts of 1994, section 33d as amended by Act No. 164 of the
5 Public Acts of 1994, section 33e as added and section 44 as
6 amended by Act No. 181 of the Public Acts of 1992, section 34 as
7 amended by Act No. 345 of the Public Acts of 1994, section 34a as
8 amended by Act No. 427 of the Public Acts of 1994, section 36 as
9 amended by Act No. 287 of the Public Acts of 1994, sections 36a
10 and 40a as amended by Act No. 346 of the Public Acts of 1993,
11 section 39 as amended by Act No. 293 of the Public Acts of 1988,
12 section 65d as added by Act No. 401 of the Public Acts of 1988,
13 and section 65g as added by Act No. 353 of the Public Acts of
14 1990, being sections 791.202, 791.206, 791.208, 791.211, 791.231,
15 791.233, 791.233b, 791.233d, 791.233e, 791.234, 791.234a,
16 791.235, 791.236, 791.236a, 791.237, 791.238, 791.239, 791.239a,
17 791.240a, 791.241, 791.242, 791.243, 791.244, 791.245, 791.246,
18 791.264, 791.265, 791.265a, 791.265d, and 791.265g of the
19 Michigan Compiled Laws, are amended and sections 31b and 34b are
20 added to read as follows:

21 TITLE

22 An act to revise, consolidate, and codify the laws relating
23 to probationers and probation officers, to pardons, reprieves,
24 commutations, ~~and~~ paroles, AND SUPERVISED RELEASES, to the
25 administration of correctional institutions, correctional farms,
26 and probation recovery camps, to prisoner labor and correctional
27 industries, and to the supervision and inspection of local jails

1 and houses of correction; to provide for the siting of
2 correctional facilities; to create a state department of correc-
3 tions, and to prescribe its powers and duties; to provide for the
4 transfer to and vesting in ~~said~~ THE department of powers and
5 duties vested by law in certain other state boards, commissions,
6 and officers, and to abolish certain boards, commissions, and
7 offices the powers and duties of which are transferred by this
8 act; to prescribe the powers and duties of certain other state
9 departments and agencies; to provide for the creation of a local
10 lockup advisory board; to prescribe penalties for the violation
11 of the provisions of this act; to make certain appropriations; to
12 repeal certain parts of this act on specific dates; and to repeal
13 all acts and parts of acts inconsistent with the provisions of
14 this act.

15 Sec. 2. ~~(1) The commission shall elect annually a chair~~
16 ~~person and other officers as it considers expedient. A meeting~~
17 ~~shall be held not less than once each month or at other times as~~
18 ~~considered necessary. A majority of the total membership of the~~
19 ~~commission shall constitute a quorum for the transaction of~~
20 ~~business. The commission shall constitute the responsible~~
21 ~~authority~~ THE DIRECTOR IS RESPONSIBLE for the administration of
22 the correctional facilities, correctional industries, parole,
23 SUPERVISED RELEASE, and probation of the state, subject to the
24 limitations set forth in this act. The ~~commission~~ DIRECTOR
25 shall determine all matters relating to the unified development
26 of the correctional facilities, correctional industries, parole,
27 SUPERVISED RELEASE, and probation of the state and shall

1 coordinate and adjust the agencies and correctional facilities
2 within its jurisdiction so that each shall form an integral part
3 of a general system.

4 ~~(2) The business which the commission may perform shall be~~
5 ~~conducted at a public meeting held in compliance with Act No.~~
6 ~~267 of the Public Acts of 1976, being sections 15.261 to 15.275~~
7 ~~of the Michigan Compiled Laws. Public notice of the time, date,~~
8 ~~and place of the meeting shall be given in the manner required by~~
9 ~~Act No. 267 of the Public Acts of 1976.~~

10 Sec. 6. (1) The director may promulgate rules pursuant to
11 ~~the~~ the administrative procedures act of 1969, Act No. 306 of the
12 Public Acts of 1969, ~~as amended,~~ being sections 24.201 to
13 24.328 of the Michigan Compiled Laws, which may provide:

14 (a) For the control, management, and operation of the gen-
15 eral affairs of the department.

16 (b) For supervision and control of probationers and proba-
17 tion officers throughout the state.

18 (c) For the manner in which applications for pardon,
19 reprieve, medical commutation, or commutation shall be made to
20 the governor; for the procedures for handling applications and
21 recommendations by the ~~parole~~ OFFENDER REVIEW board; for the
22 manner in which paroles shall be considered, the criteria to be
23 used to reach release decisions, the procedures for medical and
24 special paroles, and the duties of the ~~parole~~ OFFENDER REVIEW
25 board in those matters; for interviews on paroles and for the
26 notice of intent to conduct an interview; for the entering of
27 appropriate orders granting or denying paroles; for the

1 supervision and control of ~~paroled~~ prisoners ON PAROLE OR
2 SUPERVISED RELEASE; and for the revocation of parole AND FOR THE
3 DEPARTMENT'S DUTIES REGARDING THE REVOCATION OF SUPERVISED
4 RELEASE.

5 (d) For the management and control of state penal institu-
6 tions, correctional farms, probation recovery camps, and programs
7 for the care and supervision of youthful trainees separate and
8 apart from persons convicted of crimes within the jurisdiction of
9 the department. Except as provided ~~for~~ in section 62(3), this
10 subdivision ~~shall~~ DOES not apply to detention facilities oper-
11 ated by local units of government used to detain persons less
12 than 72 hours. The rules may permit the use of portions of penal
13 institutions in which persons convicted of crimes are detained.
14 The rules shall provide that decisions as to the removal of a
15 youth from the youthful trainee facility or the release of a
16 youth from the supervision of the department shall be made by the
17 department and shall assign responsibility for those decisions to
18 a committee.

19 (e) For the management and control of prison labor and
20 industry.

21 (2) The director may promulgate rules providing for ~~a~~
22 ~~parole~~ AN OFFENDER REVIEW board structure consisting of 3-member
23 panels.

24 (3) The director may promulgate further rules with respect
25 to the affairs of the department as the director considers neces-
26 sary or expedient for the proper administration of this act. The
27 director may modify, amend, supplement, or rescind a rule.

1 (4) The director ~~and the corrections commission~~ shall not
 2 promulgate a rule or adopt a guideline which prohibits a proba-
 3 tion officer ~~—~~ or parole officer from carrying a firearm while
 4 on duty.

5 Sec. 8. Within the department there ~~shall be~~ IS estab-
 6 lished a general division of criminal statistics under the super-
 7 vision and control of the director. ~~He~~ THE DIRECTOR shall
 8 ~~have the power and it shall be his duty to~~ obtain from all
 9 chiefs of police, sheriffs, state police, prosecuting attorneys,
 10 courts, judges, parole and probation officers and all others con-
 11 cerned in the control, apprehension, trial, probation, parole,
 12 SUPERVISED RELEASE, and commitments of adult criminals and delin-
 13 quents in this state, periodical reports as to the number and
 14 kinds of offenses known to law enforcement officers; the numbers,
 15 age, sex, race, nativity and offenses of criminals and delin-
 16 quents arrested, tried and otherwise disposed of; the sentences
 17 imposed and whether executed or suspended; the numbers placed on
 18 parole, SUPERVISED RELEASE, and probation and the reasons
 19 ~~therefor~~ FOR THOSE PLACEMENTS and such other information as ~~he~~
 20 ~~may deem~~ THE DIRECTOR CONSIDERS necessary. ~~It shall be the~~
 21 ~~duty of all such~~ ALL chiefs of police, sheriffs, state police,
 22 prosecuting attorneys, courts, judges, parole and probation offi-
 23 cers and others concerned ~~to~~ SHALL make such reports at such
 24 times and in such manner, and ~~to~~ SHALL furnish such facilities
 25 for investigation as the director may reasonably require.

26 Sec. 11. The ~~commission~~ DIRECTOR, SUBJECT TO THE
 27 AUTHORITY OF THE GOVERNOR, shall exercise the powers and duties

1 created by Act No. 89 of the Public Acts of 1935, being sections
2 798.101 to 798.103 ~~, inclusive,~~ of the MICHIGAN Compiled Laws,
3 ~~of 1948,~~ and by any interstate compact made and entered into
4 pursuant to ~~said~~ THAT act, in regard to the control and super-
5 vision of ~~parolees and probationers~~ PERSONS PLACED ON PAROLE,
6 SUPERVISED RELEASE, OR PROBATION, and in regard to cooperative
7 effort and mutual assistance in the prevention of crime and in
8 the enforcement of the penal laws and policies of the contracting
9 states, and the ~~commission~~ DIRECTOR may promulgate such rules
10 ~~and regulations as may be deemed~~ AS THE DIRECTOR CONSIDERS nec-
11 essary to more effectively carry out the terms of ~~the aforesaid~~
12 THAT act and compacts made ~~pursuant thereto~~ UNDER THAT ACT,
13 PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, ACT
14 NO. 306 OF THE PUBLIC ACTS OF 1969, BEING SECTIONS 24.201 TO
15 24.328 OF THE MICHIGAN COMPILED LAWS.

16 Sec. 31. There is established within the department a
17 bureau of field services, under the direction and supervision of
18 a deputy director in charge of field services, who shall be
19 appointed by the director and who shall be within the state civil
20 service. The deputy director shall direct and supervise the work
21 of the bureau of field services and shall formulate methods of
22 investigation and supervision and develop various processes in
23 the technique of ~~supervision by the parole staff~~ SUPERVISING
24 PERSONS ON PROBATION, PAROLE, OR SUPERVISED RELEASE. The deputy
25 director is responsible for all investigations of persons eligi-
26 ble for release from state ~~penal institutions~~ CORRECTIONAL
27 FACILITIES, and for the general supervision of persons released

1 from ~~penal institutions~~ STATE CORRECTIONAL FACILITIES. The
2 deputy director in charge of the bureau of field services is
3 responsible for the collection and preservation of records and
4 statistics with respect to ~~paroled prisoners~~ PERSONS PLACED ON
5 PROBATION, PAROLE, OR SUPERVISED RELEASE as may be required by
6 the director. ~~and the chairperson of the parole board.~~ The
7 deputy director shall employ parole officers and assistants as
8 may be necessary, subject to the approval of the director. ~~The~~
9 ~~deputy director shall select secretarial and other assistants as~~
10 ~~may be necessary and may obtain permanent quarters for the staff~~
11 ~~as may be necessary.~~

12 SEC. 31B. (1) BEGINNING ON THE EFFECTIVE DATE OF THE AMEN-
13 DATORY ACT THAT ADDED THIS SECTION, THERE IS ESTABLISHED IN THE
14 DEPARTMENT AN OFFENDER REVIEW BOARD CONSISTING OF 10 MEMBERS WHO
15 SHALL BE APPOINTED BY THE DIRECTOR AND WHO SHALL NOT BE WITHIN
16 THE STATE CIVIL SERVICE.

17 (2) MEMBERS OF THE OFFENDER REVIEW BOARD SHALL BE APPOINTED
18 TO TERMS OF 4 YEARS EACH, EXCEPT THAT OF THE MEMBERS FIRST
19 APPOINTED, 4 SHALL SERVE FOR TERMS OF 4 YEARS EACH, 3 SHALL SERVE
20 FOR TERMS OF 3 YEARS EACH, AND 3 SHALL SERVE FOR TERMS OF 2 YEARS
21 EACH. A MEMBER MAY BE REAPPOINTED. THE DIRECTOR MAY REMOVE A
22 MEMBER OF THE BOARD FOR INCOMPETENCY, DERELICTION OF DUTY, MAL-
23 FEASANCE, MISFEASANCE, OR NONFEASANCE IN OFFICE. IF A VACANCY
24 OCCURS ON THE BOARD, THE DIRECTOR SHALL MAKE AN APPOINTMENT FOR
25 THE UNEXPIRED TERM IN THE SAME MANNER AS AN ORIGINAL
26 APPOINTMENT. AT LEAST 4 MEMBERS OF THE BOARD SHALL BE PERSONS
27 WHO, AT THE TIME OF THEIR APPOINTMENT, HAVE NEVER BEEN EMPLOYED

1 BY OR APPOINTED TO A POSITION IN THE DEPARTMENT OF CORRECTIONS,
 2 EXCEPT THAT THIS LIMITATION DOES NOT APPLY TO A PERSON WHO SERVED
 3 AS A MEMBER OF THE FORMER PAROLE BOARD THAT WAS ABOLISHED BY THE
 4 AMENDATORY ACT THAT ADDED THIS SECTION.

5 (3) EACH MEMBER OF THE OFFENDER REVIEW BOARD SHALL RECEIVE
 6 AN ANNUAL SALARY AS ESTABLISHED BY THE LEGISLATURE AND SHALL BE
 7 ENTITLED TO NECESSARY TRAVELING EXPENSES INCURRED IN THE PER-
 8 FORMANCE OF OFFICIAL DUTIES SUBJECT TO THE STANDARDIZED TRAVEL
 9 REGULATIONS OF THE STATE.

10 (4) THE CHAIRPERSON OF THE OFFENDER REVIEW BOARD SHALL BE
 11 DESIGNATED BY THE DIRECTOR. THE CHAIRPERSON OF THE BOARD IS
 12 RESPONSIBLE FOR THE ADMINISTRATION AND OPERATION OF THE BOARD.
 13 THE CHAIRPERSON MAY CONDUCT INTERVIEWS AND PARTICIPATE IN THE
 14 DECISION MAKING PROCESS REGARDING SUPERVISED RELEASE AND PAROLE.

15 Sec. 33. (1) ~~The~~ A grant of a parole is AVAILABLE ONLY TO
 16 PRISONERS SENTENCED FOR CRIMES COMMITTED ON OR BEFORE THE EFFEC-
 17 TIVE DATE OF THE 1995 AMENDATORY ACT THAT AMENDED THIS SECTION,
 18 AND IS subject to all of the following:

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

24 (b) Except as provided in section 34a, a parole shall not be
 25 granted to a prisoner ~~other than a prisoner subject to disci-~~
 26 ~~plinary time~~ until the prisoner has served the minimum term
 27 imposed by the court less allowances for good time, ~~or~~ special

1 good time, OR DISCIPLINARY CREDITS to which the prisoner may be
2 entitled by statute, except that a prisoner ~~other than a pris-~~
3 ~~oner subject to disciplinary time~~ is eligible for parole before
4 the expiration of his or her minimum term of imprisonment when-
5 ever the sentencing judge, or the judge's successor in office,
6 gives written approval of the parole of the prisoner before the
7 expiration of the minimum term of imprisonment.

8 (c) Except as provided in section 34a, and notwithstanding
9 ~~the provisions of~~ subdivision (b), a parole shall not be
10 granted to a prisoner ~~other than a prisoner subject to disci-~~
11 ~~plinary time~~ sentenced for the commission of a crime described
12 in section 33b(a) to (cc) until the prisoner has served the mini-
13 mum term imposed by the court less an allowance for disciplinary
14 credits as provided in section 33(5) of Act No. 118 of the Public
15 Acts of 1893, being section 800.33 of the Michigan Compiled
16 Laws. A prisoner described in this subdivision is not eligible
17 for special parole.

18 ~~(d) Except as provided in section 34a, a parole shall not~~
19 ~~be granted to a prisoner subject to disciplinary time until the~~
20 ~~prisoner has served the minimum term imposed by the court, plus~~
21 ~~any disciplinary time accumulated pursuant to section 34 of Act~~
22 ~~No. 118 of the Public Acts of 1893, being section 800.34 of the~~
23 ~~Michigan Compiled Laws.~~

24 (D) ~~(e)~~ A prisoner shall not be released on parole until
25 the ~~parole~~ OFFENDER REVIEW board has satisfactory evidence that
26 arrangements have been made for such honorable and useful
27 employment as the prisoner is capable of performing, for the

1 prisoner's education, or for the prisoner's care if the prisoner
2 is mentally or physically ill or incapacitated.

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

7 (3) Pursuant to the administrative procedures act of 1969,
8 Act No. 306 of the Public Acts of 1969, ~~as amended,~~ being sec-
9 tions 24.201 to 24.328 of the Michigan Compiled Laws, the
10 ~~parole~~ OFFENDER REVIEW board may promulgate rules not inconsis-
11 tent with this act with respect to conditions to be imposed upon
12 prisoners paroled under this act.

13 Sec. 33b. (1) A person convicted and sentenced for the com-
14 mission of any of the following crimes ~~other than a prisoner~~
15 ~~subject to disciplinary time~~ is not eligible for parole until
16 the person has served the minimum term imposed by the court less
17 an allowance for disciplinary credits as provided in section
18 33(5) of Act No. 118 of the Public Acts of 1893, being section
19 800.33 of the Michigan Compiled Laws, and is not eligible for
20 special parole:

21 (a) Section 13 of the Michigan penal code, Act No. 328 of
22 the Public Acts of 1931, ~~as amended,~~ being section 750.13 of
23 the Michigan Compiled Laws.

24 (b) Section 14 of Act No. 328 of the Public Acts of 1931,
25 ~~as amended,~~ being section 750.14 of the Michigan Compiled
26 Laws.

1 (c) Section 72, 73, or 75 of Act No. 328 of the Public Acts
2 of 1931, ~~as amended,~~ being ~~section~~ SECTIONS 750.72, 750.73,
3 ~~or~~ AND 750.75 of the Michigan Compiled Laws.

4 (d) Section 80, 82, 83, 84, 86, 87, 88, 89, or 90 of Act
5 No. 328 of the Public Acts of 1931, ~~as amended,~~ being ~~section~~
6 SECTIONS 750.80, 750.82, 750.83, 750.84, 750.86, 750.87, 750.88,
7 750.89, ~~or~~ AND 750.90 of the Michigan Compiled Laws, or under
8 former section 85 of Act No. 328 of the Public Acts of 1931.

9 (e) Section 91 or 92 of Act No. 328 of the Public Acts of
10 1931, ~~as amended,~~ being ~~section~~ SECTIONS 750.91 ~~or~~ AND
11 750.92 of the Michigan Compiled Laws.

12 (f) Section 110, 112, or 116 of Act No. 328 of the Public
13 Acts of 1931, ~~as amended,~~ being ~~section~~ SECTIONS 750.110,
14 750.112, ~~or~~ AND 750.116 of the Michigan Compiled Laws.

15 (g) Section 135, 136b(2), or 136b(3) of Act No. 328 of the
16 Public Acts of 1931, ~~as amended,~~ being ~~section~~ SECTIONS
17 750.135 ~~or~~ AND 750.136b of the Michigan Compiled Laws, or under
18 former section 136a of Act No. 328 of the Public Acts of 1931.

19 (h) Section 158 of Act No. 328 of the Public Acts of 1931,
20 ~~as amended,~~ being section 750.158 of the Michigan Compiled
21 Laws.

22 (i) Section 160 of Act No. 328 of the Public Acts of 1931,
23 ~~as amended,~~ being section 750.160 of the Michigan Compiled
24 Laws.

25 (j) Section 171 of Act No. 328 of the Public Acts of 1931,
26 ~~as amended,~~ being section 750.171 of the Michigan Compiled
27 Laws.

1 (k) Section 196 of Act No. 328 of the Public Acts of 1931,
2 ~~as amended,~~ being section 750.196 of the Michigan Compiled
3 Laws, or under former section 194 of Act No. 328 of the Public
4 Acts of 1931.

5 (l) Section 204, 205, 206, 207, 208, 209, or 213 of Act
6 No. 328 of the Public Acts of 1931, ~~as amended,~~ being ~~section~~
7 SECTIONS 750.204, 750.205, 750.206, 750.207, 750.208, 750.209,
8 ~~or~~ AND 750.213 of the Michigan Compiled Laws.

9 (m) Section 224, 226, or 227 of Act No. 328 of the Public
10 Acts of 1931, ~~as amended,~~ being ~~section~~ SECTIONS 750.224,
11 750.226, ~~or~~ AND 750.227 of the Michigan Compiled Laws.

12 (n) Section 316, 317, 319, 321, 322, 323, 327, 328, or 329
13 of Act No. 328 of the Public Acts of 1931, ~~as amended,~~ being
14 ~~section~~ SECTIONS 750.316, 750.317, 750.319, 750.321, 750.322,
15 750.323, 750.327, 750.328, ~~or~~ AND 750.329 of the Michigan
16 Compiled Laws.

17 (o) Former section 333 of Act No. 328 of the Public Acts of
18 1931.

19 (p) Section 338, 338a, or 338b of Act No. 328 of the Public
20 Acts of 1931, ~~as amended,~~ being ~~section~~ SECTIONS 750.338,
21 750.338a, ~~or~~ AND 750.338b of the Michigan Compiled Laws, or
22 under former section 341 of Act No. 328 of the Public Acts of
23 1931.

24 (q) Section 349, 349a, or 350 of Act No. 328 of the Public
25 Acts of 1931, ~~as amended,~~ being ~~section~~ SECTIONS 750.349,
26 750.349a, ~~or~~ AND 750.350 of the Michigan Compiled Laws.

1 (r) Section 357 of Act No. 328 of the Public Acts of 1931,
2 ~~as amended,~~ being section 750.357 of the Michigan Compiled
3 Laws.

4 (s) Section 386 or 392 of Act No. 328 of the Public Acts of
5 1931, ~~as amended,~~ being ~~section~~ SECTIONS 750.386 ~~or~~ AND
6 750.392 of the Michigan Compiled Laws.

7 (t) Section 397 or 397a of Act No. 328 of the Public Acts of
8 1931, ~~as amended,~~ being ~~section~~ SECTIONS 750.397 ~~or~~ AND
9 750.397a of the Michigan Compiled Laws.

10 (u) Section 436 of Act No. 328 of the Public Acts of 1931,
11 ~~as amended,~~ being section 750.436 of the Michigan Compiled
12 Laws.

13 (v) Section 511 or 517 of Act No. 328 of the Public Acts of
14 1931, ~~as amended,~~ being ~~section~~ SECTIONS 750.511 ~~or~~ AND
15 750.517 of the Michigan Compiled Laws.

16 (w) Section 520b, 520c, 520d, or 520g of Act No. 328 of the
17 Public Acts of 1931, ~~as amended,~~ being ~~section~~ SECTIONS
18 750.520b, 750.520c, 750.520d, ~~or~~ AND 750.520g of the Michigan
19 Compiled Laws.

20 (x) Section 529, 529a, 530, or 531 of Act No. 328 of the
21 Public Acts of 1931, ~~as amended,~~ being ~~section~~ SECTIONS
22 750.529, 750.529a, 750.530, ~~or~~ AND 750.531 of the Michigan
23 Compiled Laws.

24 (y) Section 544 of Act No. 328 of the Public Acts of 1931,
25 ~~as amended,~~ being section 750.544 of the Michigan Compiled
26 Laws, or under former section 545a of Act No. 328 of the Public
27 Acts of 1931.

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

3 (aa) Former section 6 of Act No. 117 of the Public Acts of
4 1952.

5 (bb) Section 1, 2, or 3 of Act No. 302 of the Public Acts of
6 1968, ~~as amended,~~ being ~~section~~ SECTIONS 752.541, 752.542,
7 ~~or~~ AND 752.543 of the Michigan Compiled Laws.

8 (cc) Section 7401(2)(a), 7401(2)(b), 7402(2)(a), or
9 7402(2)(b) of the public health code, Act No. 368 of the Public
10 Acts of 1978, being ~~section~~ SECTIONS 333.7401 ~~or~~ AND 333.7402
11 of the Michigan Compiled Laws.

12 (2) THIS SECTION APPLIES ONLY TO PERSONS SENTENCED FOR
13 CRIMES COMMITTED ON OR BEFORE THE EFFECTIVE DATE OF THE 1995
14 AMENDATORY ACT THAT AMENDED THIS SECTION.

15 Sec. 33d. A prisoner serving a sentence for a violation or
16 an attempted violation of section 520b, 520c, 520d, 520e, or 520g
17 of the Michigan penal code, Act No. 328 of the Public Acts of
18 1931, being sections 750.520b, 750.520c, 750.520d, 750.520e, and
19 750.520g of the Michigan Compiled Laws, shall not be ~~released~~
20 PLACED on parole OR SUPERVISED RELEASE until he or she has pro-
21 vided blood samples for chemical testing for DNA identification
22 profiling or a determination of the blood's genetic markers and
23 has provided samples of his or her saliva for chemical testing to
24 determine the secretor status of the saliva. However, if at the
25 time the prisoner is to be ~~released~~ PLACED ON PAROLE OR SUPER-
26 VISED RELEASE the department of state police already has a sample
27 of the prisoner's blood or saliva that meets the requirements of

1 the rules promulgated under the DNA identification profiling
2 system act, Act No. 250 of the Public Acts of 1990, being sec-
3 tions 28.171 to 28.176 of the Michigan Compiled Laws, the pris-
4 oner is not required to provide another sample of the same body
5 fluid. The blood or saliva samples required to be collected
6 under this section shall be collected by the department and
7 transmitted by the department to the department of state police
8 in the manner prescribed by rules promulgated under the DNA iden-
9 tification profiling system act, Act No. 250 of the Public Acts
10 of 1990.

11 Sec. 33e. (1) The department shall develop parole guide-
12 lines that are consistent with section 33(1)(a) and that ~~shall~~
13 govern the exercise of the ~~parole~~ OFFENDER REVIEW board's dis-
14 cretion pursuant to sections 34 and 35 as to the release of pris-
15 oners on parole under this act. The purpose of the parole guide-
16 lines shall be to assist the ~~parole~~ OFFENDER REVIEW board in
17 making release decisions that enhance the public safety.

18 (2) In developing the parole guidelines, the department
19 shall consider factors including, but not limited to, the
20 following:

21 (a) The offense for which the prisoner is incarcerated at
22 the time of parole consideration.

23 (b) The prisoner's institutional program performance.

24 (c) The prisoner's institutional conduct.

25 (d) The prisoner's prior criminal record. As used in this
26 subdivision, "prior criminal record" means the recorded criminal
27 history of a prisoner, including all misdemeanor and felony

1 convictions, probation violations, juvenile adjudications for
2 acts that would have been crimes if committed by an adult, parole
3 failures, and delayed sentences.

4 (e) Other relevant factors as determined by the department,
5 if not otherwise prohibited by law.

6 (3) In developing the parole guidelines, the department may
7 consider both of the following factors:

8 (a) The prisoner's statistical risk screening.

9 (b) The prisoner's age.

10 (4) The department shall ensure that the parole guidelines
11 do not create disparities in release decisions based on race,
12 color, national origin, gender, religion, or disability.

13 (5) The department shall promulgate rules pursuant to the
14 administrative procedures act of 1969, Act No. 306 of the Public
15 Acts of 1969, being sections 24.201 to 24.328 of the Michigan
16 Compiled Laws, which shall prescribe the parole guidelines. The
17 department shall submit the proposed rules to the joint committee
18 on administrative rules not later than April 1, 1994. Until the
19 rules take effect, the director shall require that the parole
20 guidelines be considered by the ~~parole~~ OFFENDER REVIEW board in
21 making release decisions. After the rules take effect, the
22 director shall require that the ~~parole~~ OFFENDER REVIEW board
23 follow the parole guidelines.

24 (6) The ~~parole~~ OFFENDER REVIEW board may depart from the
25 parole guidelines by denying parole to a prisoner who has a high
26 probability of parole as determined under the parole guidelines
27 or by granting parole to a prisoner who has a low probability of

1 parole as determined under the parole guidelines. A departure
2 under this subsection shall be for substantial and compelling
3 reasons stated in writing. The ~~parole~~ OFFENDER REVIEW board
4 shall not use a prisoner's gender, race, ethnicity, alienage,
5 national origin, or religion to depart from the recommended
6 parole guidelines.

7 (7) ~~Not less than once every 2 years, the department shall~~
8 ~~review the correlation between the implementation of the parole~~
9 ~~guidelines and the recidivism rate of paroled prisoners, and~~
10 ~~shall submit to the joint committee on administrative rules any~~
11 ~~proposed revisions to the administrative rules that the depart-~~
12 ~~ment considers appropriate after conducting the review. THE~~
13 PAROLE GUIDELINES APPLY ONLY TO PRISONERS SENTENCED FOR CRIMES
14 COMMITTED ON OR BEFORE THE EFFECTIVE DATE OF THE 1995 AMENDATORY
15 ACT THAT AMENDED THIS SECTION.

16 Sec. 34. (1) Except as provided in section 34a, a prisoner
17 sentenced FOR A CRIME COMMITTED ON OR BEFORE THE EFFECTIVE DATE
18 OF THE 1995 AMENDATORY ACT THAT AMENDED THIS SECTION to an inde-
19 terminate sentence and confined in a state correctional facility
20 with a minimum in terms of years ~~other than a prisoner subject~~
21 ~~to disciplinary time~~ is subject to the jurisdiction of the
22 ~~parole~~ OFFENDER REVIEW board FOR PURPOSES OF PAROLE when the
23 prisoner has served a period of time equal to the minimum sen-
24 tence imposed by the court for the crime of which he or she was
25 convicted, less good time and disciplinary credits, if
26 applicable.

1 ~~(2) Except as provided in section 34a, a prisoner subject~~
2 ~~to disciplinary time sentenced to an indeterminate sentence and~~
3 ~~confined in a state correctional facility with a minimum in terms~~
4 ~~of years is subject to the jurisdiction of the parole board when~~
5 ~~the prisoner has served a period of time equal to the minimum~~
6 ~~sentence imposed by the court for the crime of which he or she~~
7 ~~was convicted, plus any disciplinary time accumulated pursuant to~~
8 ~~section 34 of Act No. 118 of the Public Acts of 1893, being sec-~~
9 ~~tion 800.34 of the Michigan Compiled Laws.~~

10 (2) ~~-(3)-~~ If a prisoner ~~other than a prisoner subject to~~
11 ~~disciplinary time~~ is sentenced FOR A CRIME COMMITTED ON OR
12 BEFORE THE EFFECTIVE DATE OF THE 1995 AMENDATORY ACT THAT AMENDED
13 THIS SECTION for consecutive terms, whether received at the same
14 time or at any time during the life of the original sentence, the
15 ~~parole~~ OFFENDER REVIEW board has jurisdiction over the prisoner
16 for purposes of parole when the prisoner has served the total
17 time of the added minimum terms, less the good time and disci-
18 plinary credits allowed by statute. The maximum terms of the
19 sentences shall be added to compute the new maximum term under
20 this subsection, and discharge shall be issued only after the
21 total of the maximum sentences has been served less good time and
22 disciplinary credits, unless the prisoner is paroled and dis-
23 charged upon satisfactory completion of the parole.

24 ~~-(4) If a prisoner subject to disciplinary time is sentenced~~
25 ~~for consecutive terms, whether received at the same time or at~~
26 ~~any time during the life of the original sentence, the parole~~
27 ~~board has jurisdiction over the prisoner for purposes of parole~~

1 ~~when the prisoner has served the total time of the added minimum~~
2 ~~terms, plus any disciplinary time. The maximum terms of the sen-~~
3 ~~tences shall be added to compute the new maximum term under this~~
4 ~~subsection, and discharge shall be issued only after the total of~~
5 ~~the maximum sentences has been served, unless the prisoner is~~
6 ~~paroled and discharged upon satisfactory completion of the~~
7 ~~parole.~~

8 (3) ~~-(5)-~~ If a prisoner ~~other than a prisoner subject to~~
9 ~~disciplinary time~~ SENTENCED FOR A CRIME COMMITTED ON OR BEFORE
10 THE EFFECTIVE DATE OF THE 1995 AMENDATORY ACT THAT AMENDED THIS
11 SECTION has 1 or more consecutive terms remaining to serve in
12 addition to the term he or she is serving, the parole board may
13 terminate the sentence the prisoner is presently serving at any
14 time after the minimum term of the sentence has been served.

15 (4) ~~-(6)-~~ A prisoner under sentence FOR A CRIME COMMITTED ON
16 OR BEFORE THE EFFECTIVE DATE OF THE 1995 AMENDATORY ACT THAT
17 AMENDED THIS SECTION for life or for a term of years, other than
18 a prisoner sentenced for life for murder in the first degree or
19 sentenced for life or for a minimum term of imprisonment for a
20 major controlled substance offense, who has served 10 calendar
21 years of the sentence in the case of a prisoner sentenced for a
22 crime committed before October 1, 1992, or who has served 15 cal-
23 endar years of the sentence in the case of a prisoner sentenced
24 for a crime committed on or after October 1, 1992, is subject to
25 the jurisdiction of the ~~parole~~ OFFENDER REVIEW board and may be
26 released on parole by the ~~parole~~ OFFENDER REVIEW board, subject
27 to the following conditions:

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

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

18 (c) A parole granted under this subsection shall be for a
19 period of not less than 4 years and subject to the usual rules
20 pertaining to paroles granted by the ~~parole~~ OFFENDER REVIEW
21 board. A parole ordered under this subsection is not valid until
22 the transcript of the record is filed with the attorney general
23 whose certification of receipt of the transcript shall be return-
24 able to the office of the ~~parole~~ OFFENDER REVIEW board within 5
25 days. Except for medical records protected under section 2157 of
26 the revised judicature act of 1961, Act No. 236 of the Public
27 Acts of 1961, being section 600.2157 of the Michigan Compiled

1 Laws, the file of a prisoner granted a parole under this
2 subsection is a public record.

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

7 (5) ~~(7)~~ Except as provided in section 34a, a prisoner's
8 release on parole is discretionary with the ~~parole~~ OFFENDER
9 REVIEW board. The action of the ~~parole~~ OFFENDER REVIEW board
10 in granting or denying a parole is appealable by the prisoner,
11 the prosecutor of the county from which the prisoner was commit-
12 ted, or the victim of the crime for which the prisoner was
13 convicted. The appeal shall be to the circuit court in the
14 county from which the prisoner was committed, by leave of the
15 court.

16 ~~(8) The provisions of this section regarding prisoners~~
17 ~~subject to disciplinary time take effect beginning on the effec-~~
18 ~~tive date of Act No. 217 of the Public Acts of 1994, as pre-~~
19 ~~scribed in enacting section 2 of that amendatory act.~~

20 (6) AN ORDER OF PAROLE ISSUED ON OR BEFORE THE EFFECTIVE
21 DATE OF THE 1995 AMENDATORY ACT THAT ADDED THIS SUBSECTION
22 REMAINS VALID NOTWITHSTANDING THE ABOLITION OF THE PAROLE BOARD
23 AND THE CREATION OF THE OFFENDER REVIEW BOARD. THE OFFENDER
24 REVIEW BOARD IS THE SUCCESSOR OF THE FORMER PAROLE BOARD FOR ALL
25 PURPOSES RELATING TO PAROLES ISSUED ON OR BEFORE THE EFFECTIVE
26 DATE OF THE 1995 AMENDATORY ACT THAT ADDED THIS SUBSECTION, AND

1 HAS FULL POWER AND AUTHORITY TO EFFECTUATE THOSE ORDERS AS
2 PROVIDED IN THIS ACT.

3 (7) A PRISONER SENTENCED FOR A CRIME COMMITTED AFTER THE
4 EFFECTIVE DATE OF THE 1995 AMENDATORY ACT THAT ADDED THIS SUBSEC-
5 TION IS NOT ELIGIBLE FOR PAROLE, AND SHALL INSTEAD BE SUBJECT TO
6 THE SUPERVISED RELEASE PROVISIONS OF SECTION 34B AND TO THE CON-
7 TINUING JURISDICTION OF THE COURT PURSUANT TO SECTION 8A OF CHAP-
8 TER IX OF THE CODE OF CRIMINAL PROCEDURE, ACT NO. 175 OF THE
9 PUBLIC ACTS OF 1927, BEING SECTION 769.8A OF THE MICHIGAN
10 COMPILED LAWS.

11 Sec. 34a. (1) A prisoner sentenced either before, on, or
12 after the effective date of the amendatory act that added this
13 section to an indeterminate OR DETERMINATE term of imprisonment
14 under the jurisdiction of the department shall be considered by
15 the department for placement in a special alternative carcera-
16 tion unit established under section 3 of the special alternative
17 incarceration act, Act No. 287 of the Public Acts of 1988, being
18 section 798.13 of the Michigan Compiled Laws, if the prisoner
19 meets the eligibility requirements of subsections (2) and (3).
20 For a prisoner committed to the jurisdiction of the department on
21 or after March 19, 1992, the department shall determine before
22 the prisoner leaves the reception center whether the prisoner is
23 eligible for placement in a special alternative incarceration
24 unit, although actual placement may take place at a later date.
25 A determination of eligibility does not guarantee placement in a
26 unit.

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

4 (a) The prisoner's minimum sentence OR DETERMINATE SENTENCE
5 does not exceed either of the following limits, as applicable:

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

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

12 (b) The prisoner has never previously been placed in a spe-
13 cial alternative incarceration unit as either a prisoner or a
14 probationer, unless he or she was removed from a special alterna-
15 tive incarceration unit for medical reasons as specified in
16 subsection (6).

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

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

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

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

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

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

3 (i) A violation of section 11, 49, 80, 83, 89, 91, 157b,
4 158, 207, 260, 316, 317, 327, 328, 335a, 338, 338a, 338b, 349,
5 349a, 350, 422, 436, 511, 516, 517, 520b, 529, 529a, 531, or 544
6 of the Michigan penal code, Act No. 328 of the Public Acts of
7 1931, being sections 750.11, 750.49, 750.80, 750.83, 750.89,
8 750.91, 750.157b, 750.158, 750.207, 750.260, 750.316, 750.317,
9 750.327, 750.328, 750.335a, 750.338, 750.338a, 750.338b, 750.349,
10 750.349a, 750.350, 750.422, 750.436, 750.511, 750.516, 750.517,
11 750.520b, 750.529, 750.529a, 750.531, and 750.544 of the Michigan
12 Compiled Laws.

13 (ii) A violation of section 145c, 520c, 520d, or 520g of Act
14 No. 328 of the Public Acts of 1931, being sections 750.145c,
15 750.520c, 750.520d, and 750.520g of the Michigan Compiled Laws.

16 (iii) A violation of section 72, 73, or 75 of Act No. 328 of
17 the Public Acts of 1931, being sections 750.72, 750.73, and
18 750.75 of the Michigan Compiled Laws.

19 (iv) A violation of section 86, 112, 136b, 193, 195, 213,
20 319, 321, 329, or 397 of Act No. 328 of the Public Acts of 1931,
21 being sections 750.86, 750.112, 750.136b, 750.193, 750.195,
22 750.213, 750.319, 750.321, 750.329, and 750.397 of the Michigan
23 Compiled Laws.

24 (v) A violation of section 2 of Act No. 302 of the Public
25 Acts of 1968, being section 752.542 of the Michigan Compiled
26 Laws.

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

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

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

11 (3) A prisoner who is serving a sentence for a violation of
12 section 7401 or 7403 of the public health code, Act No. 368 of
13 the Public Acts of 1978, being sections 333.7401 and 333.7403 of
14 the Michigan Compiled Laws, and who has previously been convicted
15 for a violation of section 7401 or 7403(2)(a), (b), or (e) of Act
16 No. 368 of the Public Acts of 1978 is not eligible for placement
17 in a special alternative incarceration unit until after he or she
18 has served the equivalent of the mandatory minimum sentence OR
19 MANDATORY DETERMINATE SENTENCE prescribed by statute for that
20 violation.

21 (4) If the sentencing judge prohibited a prisoner's partici-
22 pation in the special alternative incarceration program in the
23 judgment of sentence, that prisoner shall not be placed in a spe-
24 cial alternative incarceration unit. If the sentencing judge
25 permitted the prisoner's participation in the special alternative
26 incarceration program in the judgment of sentence, that prisoner
27 may be placed in a special alternative incarceration unit if the

1 department determines that the prisoner also meets the
2 requirements of subsections (2) and (3). If the sentencing judge
3 neither prohibited nor permitted a prisoner's participation in
4 the special alternative incarceration program in the judgment of
5 sentence, and the department determines that the prisoner meets
6 the eligibility requirements of subsections (2) and (3), the
7 department shall notify the judge or the judge's successor, the
8 prosecuting attorney for the county in which the prisoner was
9 sentenced, and any victim of the crime for which the prisoner was
10 committed if the victim has submitted to the department a written
11 request for any notification pursuant to section 19(1) of the
12 crime victim's rights act, Act No. 87 of the Public Acts of 1985,
13 being section 780.769 of the Michigan Compiled Laws, of the pro-
14 posed placement of the prisoner in the special alternative incar-
15 ceration unit not later than 30 days before placement is intended
16 to occur. The department shall not place the prisoner in a spe-
17 cial alternative incarceration unit unless the sentencing judge,
18 or the judge's successor, notifies the department, in writing,
19 that he or she does not object to the proposed placement. In
20 making the decision on whether or not to object, the judge, or
21 judge's successor, shall review any impact statement submitted
22 pursuant to section 14 of Act No. 87 of the Public Acts of 1985,
23 being section 780.764 of the Michigan Compiled Laws, by the
24 victim or victims of the crime of which the prisoner was
25 convicted.

26 (5) Notwithstanding subsection (4), a prisoner shall not be
27 placed in a special alternative incarceration unit unless the

1 prisoner consents to that placement and agrees that the
2 department may suspend or restrict privileges generally afforded
3 other prisoners including, but not limited to, the areas of visi-
4 tation, property, mail, publications, commissary, library, and
5 telephone access. However, the department may not suspend or
6 restrict the prisoner's access to the prisoner grievance system.

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

22 (7) Upon certification of completion of the special alterna-
23 tive incarceration program, ~~the~~ A prisoner, IF HE OR SHE IS
24 SERVING A SENTENCE FOR A CRIME COMMITTED ON OR BEFORE THE EFFEC-
25 TIVE DATE OF THE 1995 AMENDATORY ACT THAT AMENDED THIS SECTION,
26 shall be placed on parole, OR, IF HE OR SHE IS SERVING A SENTENCE
27 FOR A CRIME COMMITTED AFTER THAT DATE, SHALL BE PLACED ON

1 SUPERVISED RELEASE. A prisoner ~~paroled~~ PLACED ON PAROLE OR
2 SUPERVISED RELEASE under this section shall have conditions of
3 parole OR SUPERVISED RELEASE as determined appropriate by the
4 ~~parole~~ OFFENDER REVIEW board. ~~and~~ A PRISONER PLACED ON
5 PAROLE OR SUPERVISED RELEASE UNDER THIS SUBSECTION shall be
6 placed on parole OR SUPERVISED RELEASE for not less than 18
7 months, or the balance of the prisoner's minimum sentence OR
8 DETERMINATE SENTENCE, whichever is greater, with at least the
9 first 120 days under intensive supervision.

10 (8) The ~~parole~~ OFFENDER REVIEW board may suspend or revoke
11 parole OR SUPERVISED RELEASE for any prisoner ~~paroled~~ PLACED ON
12 PAROLE OR SUPERVISED RELEASE under this section subject to
13 ~~sections 39a and 40a~~ REVOCATION PROCEDURES PROVIDED IN THIS
14 ACT. For a prisoner other than a prisoner subject to disci-
15 plinary time, if parole is revoked before the expiration of the
16 prisoner's minimum sentence, less disciplinary credits, OR IF
17 SUPERVISED RELEASE IS REVOKED BEFORE THE EXPIRATION OF THE
18 PRISONER'S DETERMINATE SENTENCE, the ~~parole~~ OFFENDER REVIEW
19 board shall forfeit, pursuant to section 33(13) of Act No. 118 of
20 the Public Acts of 1893, being section 800.33 of the Michigan
21 Compiled Laws, all disciplinary credits that were accumulated
22 during special alternative incarceration. ~~, and the prisoner~~
23 ~~shall be considered for parole pursuant to section 35.~~

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

~~(10) The provisions of this section regarding prisoners
subject to disciplinary time take effect beginning on the effective date of Act No. 217 of the Public Acts of 1994, as prescribed in enacting section 2 of that amendatory act.~~

SEC. 34B. (1) THE OFFENDER REVIEW BOARD SHALL ISSUE AN ORDER OF SUPERVISED RELEASE FOR EVERY PRISONER SENTENCED FOR AN OFFENSE COMMITTED AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION, AS REQUIRED BY THAT PRISONER'S JUDGMENT OF SENTENCE.

(2) AN ORDER OF SUPERVISED RELEASE SHALL BE ISSUED TO A PRISONER WHEN THE PRISONER COMPLETES HIS OR HER SENTENCE, SUBJECT TO ANY APPLICABLE DISCIPLINARY CREDITS OR DISCIPLINARY TIME. IF THE PRISONER IS SENTENCED FOR CONSECUTIVE TERMS, WHETHER RECEIVED AT THE SAME TIME OR AT ANY TIME DURING THE TERM OF THE ORIGINAL SENTENCE, THE ORDER OF SUPERVISED RELEASE SHALL BE ISSUED WHEN THE PRISONER HAS SERVED THE TOTAL TIME OF THE ADDED TERMS, SUBJECT TO ANY APPLICABLE DISCIPLINARY CREDITS OR DISCIPLINARY TIME.

(3) EVERY ORDER OF SUPERVISED RELEASE SHALL CONTAIN STANDARD CONDITIONS OF SUPERVISED RELEASE, AS DETERMINED BY THE DEPARTMENT, THAT SHALL PROVIDE FOR THE PROPER SUPERVISION OF THAT PERSON. NOT LATER THAN 60 DAYS BEFORE THE DATE ON WHICH A PRISONER WILL HAVE SERVED HIS OR HER SENTENCE, SUBJECT TO ANY APPLICABLE DISCIPLINARY CREDITS OR DISCIPLINARY TIME, THE OFFENDER REVIEW BOARD SHALL REVIEW THE INSTITUTIONAL RECORD OF THE PRISONER, AND SHALL DETERMINE WHETHER ANY SPECIFIC CONDITIONS OF SUPERVISED RELEASE SHALL BE INCLUDED IN THAT PRISONER'S ORDER OF

1 SUPERVISED RELEASE, WHICH SHALL BE IN ADDITION TO THE STANDARD
2 CONDITIONS. THE OFFENDER REVIEW BOARD MAY INTERVIEW A PRISONER
3 WHEN DECIDING WHETHER TO IMPOSE SPECIFIC CONDITIONS OF SUPERVISED
4 RELEASE.

5 (4) THE DEPARTMENT SHALL SUBMIT A PETITION TO THE PROBATE
6 COURT UNDER SECTION 434 OF THE MENTAL HEALTH CODE, ACT NO. 258 OF
7 THE PUBLIC ACTS OF 1974, BEING SECTION 330.1434 OF THE MICHIGAN
8 COMPILED LAWS, FOR ANY PRISONER BEING PLACED ON SUPERVISED
9 RELEASE WHOM THE DEPARTMENT CONSIDERS TO BE A PERSON REQUIRING
10 TREATMENT. THE OFFENDER REVIEW BOARD SHALL REQUIRE MENTAL HEALTH
11 TREATMENT AS A CONDITION OF SUPERVISED RELEASE FOR ANY PERSON
12 WHOM THE DEPARTMENT HAS DETERMINED TO BE A PERSON REQUIRING
13 TREATMENT WHETHER OR NOT THE PETITION FILED FOR THAT PERSON IS
14 GRANTED BY THE PROBATE COURT. AS USED IN THIS SUBSECTION,
15 "PERSON REQUIRING TREATMENT" MEANS THAT TERM AS DEFINED IN
16 SECTION 401 OF ACT NO. 258 OF THE PUBLIC ACTS OF 1974, BEING
17 SECTION 330.1401 OF THE MICHIGAN COMPILED LAWS.

18 (5) IF THE TIME SERVED ON A SENTENCE, OR ON 1 OR MORE CON-
19 SECUTIVE SENTENCES, EXCEEDS 10 CALENDAR YEARS, THE OFFENDER
20 REVIEW BOARD SHALL INTERVIEW THE PRISONER AT THE CONCLUSION OF 10
21 CALENDAR YEARS OF THE SENTENCE AND EVERY 5 YEARS AFTER THAT DATE
22 UNTIL THE PRISONER IS PLACED ON SUPERVISED RELEASE OR IS
23 DECEASED.

24 (6) THE ORDER OF SUPERVISED RELEASE SHALL CONTAIN A CONDI-
25 TION TO PAY RESTITUTION TO THE VICTIM OF THE PRISONER'S CRIME OR
26 THE VICTIM'S ESTATE IF THE PRISONER WAS ORDERED TO MAKE
27 RESTITUTION PURSUANT TO THE CRIME VICTIM'S RIGHTS ACT, ACT NO. 87

1 OF THE PUBLIC ACTS OF 1985, BEING SECTIONS 780.751 TO 780.834 OF
2 THE MICHIGAN COMPILED LAWS, OR THE CODE OF CRIMINAL PROCEDURE,
3 ACT NO. 175 OF THE PUBLIC ACTS OF 1927, BEING SECTIONS 760.1 TO
4 776.21 OF THE MICHIGAN COMPILED LAWS.

5 (7) THE ORDER OF SUPERVISED RELEASED SHALL CONTAIN A CONDI-
6 TION REQUIRING THE PAYMENT OF AN OFFENDER SUPERVISION FEE AS PRE-
7 SCRIBED IN SECTION 36A.

8 (8) THE ORDER OF SUPERVISED RELEASE SHALL CONTAIN A CONDI-
9 TION REQUIRING THE PRISONER TO PAY ANY ASSESSMENT HE OR SHE WAS
10 ORDERED TO PAY PURSUANT TO SECTION 5 OF ACT NO. 196 OF THE PUBLIC
11 ACTS OF 1989, BEING SECTION 780.905 OF THE MICHIGAN COMPILED
12 LAWS.

13 (9) IN EACH CASE IN WHICH PAYMENT OF RESTITUTION IS ORDERED
14 AS A CONDITION OF SUPERVISED RELEASE, A PAROLE OFFICER ASSIGNED
15 TO A CASE SHALL REVIEW THE CASE NOT LESS THAN TWICE YEARLY TO
16 ENSURE THAT RESTITUTION IS BEING PAID AS ORDERED. THE FINAL
17 REVIEW SHALL BE CONDUCTED NOT LESS THAN 60 DAYS BEFORE THE EXPI-
18 RATION OF THE PERIOD OF SUPERVISED RELEASE. IF THE PAROLE OFFI-
19 CER DETERMINES THAT RESTITUTION IS NOT BEING PAID AS ORDERED, THE
20 PAROLE OFFICER SHALL FILE A WRITTEN REPORT OF THE VIOLATION WITH
21 THE OFFENDER REVIEW BOARD ON A FORM PRESCRIBED BY THE OFFENDER
22 REVIEW BOARD. THE REPORT SHALL INCLUDE A STATEMENT OF THE AMOUNT
23 OF ARREARAGE AND ANY REASONS FOR THE ARREARAGE KNOWN BY THE
24 PAROLE OFFICER. THE OFFENDER REVIEW BOARD SHALL IMMEDIATELY PRO-
25 VIDE A COPY OF THE REPORT TO THE COURT, THE PROSECUTING ATTORNEY,
26 AND THE VICTIM.

1 (10) IF THE PERSON PLACED ON SUPERVISED RELEASE IS REQUIRED
2 TO BE REGISTERED UNDER THE SEX OFFENDERS REGISTRATION ACT, ACT
3 NO. 295 OF THE PUBLIC ACTS OF 1994, BEING SECTIONS 28.721 TO
4 28.732 OF THE MICHIGAN COMPILED LAWS, THE ORDER OF SUPERVISED
5 RELEASE SHALL CONTAIN A CONDITION REQUIRING THE PERSON TO COMPLY
6 WITH THAT ACT.

7 (11) THE OFFENDER REVIEW BOARD MAY PROMULGATE RULES CONSIS-
8 TENT WITH THIS ACT WITH RESPECT TO CONDITIONS TO BE IMPOSED ON
9 PRISONERS PLACED ON SUPERVISED RELEASE.

10 Sec. 35. (1) The release of a prisoner on parole shall be
11 granted solely upon the initiative of the ~~parole~~ OFFENDER
12 REVIEW board. The ~~parole~~ OFFENDER REVIEW board may grant a
13 parole without interviewing the prisoner. However, beginning on
14 the date on which the administrative rules prescribing parole
15 guidelines pursuant to section 33e(5) take effect, the ~~parole~~
16 board may grant a parole without interviewing the prisoner only
17 if, after evaluating the prisoner according to the parole guide-
18 lines, the ~~parole~~ board determines that the prisoner has a high
19 probability of being paroled and the ~~parole~~ board therefore
20 intends to parole the prisoner. Except as provided in
21 subsection (2), a prisoner shall not be denied parole without an
22 interview before 1 member of the ~~parole~~ board. The interview
23 shall be conducted at least 1 month before the expiration of the
24 prisoner's minimum sentence less applicable good time and disci-
25 plinary credits. ~~for a prisoner eligible for good time and dis-~~
26 ~~ciplinary credits, or at least 1 month before the expiration of~~
27 ~~the prisoner's minimum sentence plus disciplinary time for a~~

1 ~~prisoner subject to disciplinary time.~~ The ~~parole~~ board shall
2 consider any statement made to the ~~parole~~ board by a crime
3 victim under the crime victim's rights act, Act No. 87 of the
4 Public Acts of 1985, being sections 780.751 to 780.834 of the
5 Michigan Compiled Laws, or under any other provision of law. The
6 ~~parole~~ board shall not consider any of the following factors in
7 making a parole determination:

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

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

16 (2) Beginning on the date on which the administrative rules
17 prescribing the parole guidelines take effect pursuant to
18 section 33e(5), if, after evaluating a prisoner according to the
19 parole guidelines, the ~~parole~~ OFFENDER REVIEW board determines
20 that the prisoner has a low probability of being paroled and the
21 ~~parole~~ board therefore does not intend to parole the prisoner,
22 the ~~parole~~ board shall not be required to interview the pris-
23 oner before denying parole to the prisoner.

24 (3) The ~~parole~~ OFFENDER REVIEW board may consider but
25 shall not base a determination to deny parole solely on either of
26 the following:

1 (a) A prisoner's marital history.

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

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

14 (5) Except for good cause, the ~~parole~~ OFFENDER REVIEW
15 Board member conducting the interview shall not have cast a vote
16 for or against the prisoner's release before conducting the cur-
17 rent interview. Before the interview, the ~~parole~~ board member
18 who is to conduct the interview shall review pertinent informa-
19 tion relative to the notice of intent to conduct an interview.

20 (6) A prisoner may waive the right to an interview by 1
21 member of the ~~parole~~ OFFENDER REVIEW board. The waiver of the
22 right to be interviewed shall be given not more than 30 days
23 after the notice of intent to conduct an interview is issued and
24 shall be made in writing. During the interview held pursuant to
25 a notice of intent to conduct an interview, the prisoner may be
26 represented by an individual of his or her choice. The
27 representative shall not be another prisoner or an attorney. A

1 prisoner is not entitled to appointed counsel at public expense.
2 The prisoner or representative may present relevant evidence in
3 support of release. This subsection does not apply until
4 April 1, 1983.

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

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

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

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

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

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

3 (9) Psychological evaluations performed at the request of
4 the ~~parole~~ OFFENDER REVIEW board to assist it in reaching a
5 decision on the release of a prisoner may be performed by the
6 same person who provided the prisoner with therapeutic treatment,
7 unless a different person is requested by the prisoner or
8 ~~parole~~ THE board.

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

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

1 Public Acts of 1974, being section 330.1401 of the Michigan
2 Compiled Laws.

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

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

11 (14) THIS SECTION APPLIES ONLY TO PRISONERS SENTENCED FOR
12 CRIMES COMMITTED ON OR BEFORE THE EFFECTIVE DATE OF THE AMENDA-
13 TORY ACT THAT ADDED THIS SUBSECTION.

14 Sec. 36. (1) All paroles shall be ordered by the ~~parole~~
15 OFFENDER REVIEW board and shall be signed by the chairperson.
16 Written notice of the order shall be given to the sheriff or
17 other police officer of the municipality or county in which the
18 prisoner was convicted, and to the sheriff or other local police
19 officer of the municipality or county to which the paroled pris-
20 oner is sent.

21 (2) An order of parole may be amended or rescinded at the
22 discretion of the ~~parole~~ OFFENDER REVIEW board for cause. If a
23 paroled prisoner who is required to register pursuant to the sex
24 offenders registration act, ACT NO. 295 OF THE PUBLIC ACTS OF
25 1994, BEING SECTIONS 28.721 TO 28.732 OF THE MICHIGAN COMPILED
26 LAWS, willfully violates that act, the ~~parole~~ board shall
27 rescind the parole. A parole shall not be rescinded unless an

1 interview is conducted by 1 member of the ~~-parole-~~ board. The
2 purpose of the interview is to consider and act upon information
3 received by the board after the original parole release
4 decision. A rescission interview shall be conducted within 45
5 days after receiving the new information. At least 10 days
6 before the interview, the parolee shall receive a copy or summary
7 of the new evidence that is the basis for the interview. An
8 amendment to a parole order shall be in writing and is not effec-
9 tive until notice of the amendment is given to the parolee.

10 (3) When an order for parole is issued, the order shall con-
11 tain the conditions of the parole and shall specifically provide
12 proper means of supervision of the paroled prisoner in accordance
13 with the rules of the bureau of field services.

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

22 (5) The order of parole shall contain a condition requiring
23 the parolee to pay ~~-a parole-~~ AN OFFENDER supervision fee as pre-
24 scribed in section 36a.

25 (6) The order of parole shall contain a condition requiring
26 the parolee to pay any assessment the prisoner was ordered to pay

1 pursuant to section 5 of Act No. 196 of the Public Acts of 1989,
2 being section 780.905 of the Michigan Compiled Laws.

3 (7) If the parolee is required to be registered under the
4 sex offenders registration act, ACT NO. 295 OF THE PUBLIC ACTS OF
5 1994, BEING SECTIONS 28.721 TO 28.732 OF THE MICHIGAN COMPILED
6 LAWS, the order of parole shall contain a condition requiring the
7 parolee to comply with that act.

8 ~~(8) An order of parole issued for a prisoner subject to~~
9 ~~disciplinary time shall contain a condition requiring the parolee~~
10 ~~to be housed in a community corrections center or a community~~
11 ~~residential home for not less than the first 30 days but not more~~
12 ~~than the first 180 days of his or her term of parole. As used in~~
13 ~~this subsection, "community corrections center" and "community~~
14 ~~residential home" mean those terms as defined in section 65a.~~
15 ~~This subsection applies beginning on the date that sentencing~~
16 ~~guidelines are enacted into law after the sentencing commission~~
17 ~~submits its report to the secretary of the senate and the clerk~~
18 ~~of the house of representatives pursuant to sections 31 to 34 of~~
19 ~~chapter IX of the code of criminal procedure, Act No. 175 of the~~
20 ~~Public Acts of 1927, as added by the amendatory act resulting~~
21 ~~from Enrolled House Bill No. 4782 of the 87th Legislature.~~

22 (8) ~~(9)~~ In each case in which payment of restitution is
23 ordered as a condition of parole, a parole officer assigned to a
24 case shall review the case not less than twice yearly to ensure
25 that restitution is being paid as ordered. The final review
26 shall be conducted not less than 60 days before the expiration of
27 the parole period. If the parole officer determines that

1 restitution is not being paid as ordered, the parole officer
2 shall file a written report of the violation with the ~~parole~~
3 OFFENDER REVIEW board on a form prescribed by the ~~parole~~
4 board. The report shall include a statement of the amount of
5 arrearage and any reasons for the arrearage known by the parole
6 officer. The ~~parole~~ board shall immediately provide a copy of
7 the report to the court, the prosecuting attorney, and the
8 victim.

9 (9) THIS SECTION APPLIES ONLY TO PRISONERS SENTENCED FOR
10 CRIMES COMMITTED ON OR BEFORE THE EFFECTIVE DATE OF THE AMENDA-
11 TORY ACT THAT ADDED THIS SUBSECTION.

12 (10) If a parolee is required to register pursuant to ~~the~~
13 ~~sex-offenders registration act~~ ACT NO. 295 OF THE PUBLIC ACTS OF
14 1994, BEING SECTIONS 28.721 TO 28.732 OF THE MICHIGAN COMPILED
15 LAWS, the parole officer shall register the parolee as provided
16 in that act.

17 Sec. 36a. (1) The ~~parole~~ OFFENDER REVIEW board shall
18 include in each order of parole AND IN EACH ORDER OF SUPERVISED
19 RELEASE A PROVISION STATING that the department of corrections
20 shall collect ~~a parole~~ AN OFFENDER supervision fee of not more
21 than \$30.00 multiplied by the number of months of parole OR
22 SUPERVISED RELEASE ordered, but not more than 60 months. The fee
23 is payable when the parole order OR SUPERVISED RELEASE ORDER is
24 entered, but the fee may be paid in monthly installments if the
25 ~~parole~~ OFFENDER REVIEW board approves installment payments for
26 that ~~parolee~~ PERSON. In determining the amount of the fee, the
27 ~~parole~~ OFFENDER REVIEW board shall consider the ~~parolee's~~

1 PERSON'S projected income and financial resources. The ~~parole~~
 2 OFFENDER REVIEW board shall use the following table of projected
 3 monthly income in determining the amount of the fee to be
 4 ordered:

5	<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
6	\$ 0-249.99	\$ 0.00
7	\$ 250.00-499.99	\$10.00
8	\$ 500.00-749.99	\$20.00
9	\$ 750.00 or more	\$30.00

10 The ~~parole~~ OFFENDER REVIEW board may order a higher amount than
 11 indicated by the table, up to the maximum of \$30.00 multiplied by
 12 the number of months of parole OR SUPERVISED RELEASE ordered but
 13 not more than 60 months, if the ~~parole~~ OFFENDER REVIEW board
 14 determines that the ~~parolee~~ PERSON has sufficient assets or
 15 other financial resources to warrant the higher amount. If the
 16 ~~parole~~ OFFENDER REVIEW board orders a higher amount, the amount
 17 and the reasons for ordering that amount shall be stated in the
 18 parole order OR SUPERVISED RELEASE ORDER.

19 (2) A parole oversight fee OR PAROLE SUPERVISION FEE ordered
 20 before ~~October 1, 1993~~ THE EFFECTIVE DATE OF THE 1995 AMENDA-
 21 TORY ACT THAT AMENDED THIS SECTION, pursuant to this section as
 22 it existed before this section was amended by ~~Act No. 184 of the~~

1 ~~Public Acts of 1993~~ THE 1995 AMENDATORY ACT THAT AMENDED THIS
2 SECTION remains enforceable according to the terms of that
3 ~~parole~~ order notwithstanding the amendments to this section
4 made by ~~Act No. 184 of the Public Acts of 1993~~ THE 1995 AMENDA-
5 TORY ACT THAT AMENDED THIS SECTION.

6 (3) If a person who is subject to ~~a~~ AN OFFENDER supervi-
7 sion fee OR A PAROLE SUPERVISION FEE imposed on or after May 1,
8 1994 is also subject to any combination of fines, costs, restitue-
9 tion, assessments, or payments arising out of the same criminal
10 proceeding, the allocation of money collected for those obliga-
11 tions shall be as provided in section 22 of chapter XV of the
12 code of criminal procedure, Act No. 175 of the Public Acts of
13 1927, being section 775.22 of the Michigan Compiled Laws.

14 (4) A person shall not be subject to more than 1 ~~parole~~
15 OFFENDER supervision fee at the same time. If ~~a parole~~ AN
16 OFFENDER supervision fee is ordered for a ~~parolee~~ PERSON for
17 any month or months during which that ~~parolee~~ PERSON already is
18 subject to ~~a parole~~ AN OFFENDER supervision fee, the department
19 shall waive the fee having the shorter remaining duration.

20 (5) The department shall waive the ~~parole~~ OFFENDER super-
21 vision fee for a ~~parolee~~ PERSON who is transferred to another
22 state under the interstate compact entered into pursuant to Act
23 No. 89 of the Public Acts of 1935, being sections 798.101 to
24 798.103 of the Michigan Compiled Laws, for the months during
25 which he or she is in another state. The department shall col-
26 lect ~~a parole~~ AN OFFENDER supervision fee of not more than
27 \$30.00 per month for each month of ~~parole~~ supervision in this

1 state for an offender transferred to this state under that
 2 interstate compact. In determining the amount of the fee, the
 3 department shall consider the ~~parolee's~~ PERSON'S projected
 4 income and financial resources. The department shall use the
 5 following table of projected monthly income in determining the
 6 amount of the fee:

7	<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
8	\$ 0-249.99	\$ 0.00
9	\$ 250.00-499.99	\$10.00
10	\$ 500.00-749.99	\$20.00
11	\$ 750.00 or more	\$30.00

12 The department may collect a higher amount than indicated by the
 13 table, up to the maximum of \$30.00 for each month of ~~parole~~
 14 supervision in this state, if the department determines that the
 15 ~~parolee~~ PERSON has sufficient assets or other financial
 16 resources to warrant the higher amount. If the department col-
 17 lects a higher amount, the amount and the reasons for collecting
 18 that amount shall be stated in the department records.

19 (6) Twenty percent of the money collected by the department
 20 under this section shall be allocated for administrative costs
 21 incurred by the department in collecting ~~parole~~ OFFENDER
 22 supervision fees and for enhanced services, as described in this

1 subsection. Enhanced services include, but are not limited to,
2 the purchase of services for ~~parolees~~ PERSONS PLACED ON PAROLE
3 OR SUPERVISED RELEASE, such as counseling, employment training,
4 employment placement, or education; public transportation
5 expenses related to training, counseling, or employment; enhance-
6 ment of staff performance through specialized training and equip-
7 ment purchase; and purchase of items for parolee employment OF
8 PERSONS ON PAROLE OR SUPERVISED RELEASE. At the end of each
9 fiscal year, the unexpended balance of the money allocated for
10 administrative costs and enhanced services shall be available for
11 carryforward to be used for the purposes described in this sub-
12 section in subsequent fiscal years. Money received by the
13 department pursuant to this subsection in the fiscal year ending
14 September 30, 1994 is appropriated for the purposes described in
15 this subsection.

16 (7) If a ~~parolee~~ PERSON PLACED ON PAROLE OR SUPERVISED
17 RELEASE has not paid the full amount of the ~~parole~~ OFFENDER
18 supervision fee upon being discharged from parole OR SUPERVISED
19 RELEASE, the department shall review and compare the actual
20 income of the person during the period of parole OR SUPERVISED
21 RELEASE with the income amount projected when the ~~parole~~
22 OFFENDER supervision fee was ordered. If the department deter-
23 mines that the ~~parolee's~~ PERSON'S actual income did not equal
24 or exceed the projected income, the department shall waive any
25 unpaid amount in excess of the total amount that the ~~parolee~~
26 PERSON would have been ordered to pay if ~~the parolee's~~ HIS OR
27 HER income had been accurately projected, unless the parole OR

1 SUPERVISED RELEASE order states that a higher amount was ordered
2 due to available assets or other financial resources. Any unpaid
3 amounts not waived by the department shall be reported to the
4 department of treasury. The department of treasury shall attempt
5 to collect the unpaid balances pursuant to section 30a of Act
6 No. 122 of the Public Acts of 1941, being section 205.30a of the
7 Michigan Compiled Laws. Money collected under this subsection
8 shall not be allocated for the purposes described in
9 subsection (6).

10 Sec. 37. (1) When a prisoner is ~~released upon~~ PLACED ON
11 parole OR SUPERVISED RELEASE, the department shall provide the
12 prisoner with clothing and a nontransferable ticket to the place
13 in which the ~~paroled~~ prisoner is to reside. At the discretion
14 of the deputy director in charge of the bureau of field services,
15 the ~~paroled~~ prisoner may be advanced the expense of the trans-
16 portation to the place of residence and a sum of money necessary
17 for reasonable maintenance and subsistence for a 2-week period,
18 as determined by the deputy director. A sum of money given under
19 this section shall be repaid to the state by the paroled prisoner
20 within 180 days after the money is received by the paroled
21 prisoner.

22 (2) If a prisoner who is SERVING A SENTENCE FOR A CRIME COM-
23 MITTED ON OR BEFORE THE 1995 AMENDATORY ACT THAT AMENDED THIS
24 SECTION IS discharged without being paroled AND has less than
25 \$75.00 in his or her immediate possession, has no visible means
26 of support, and has conserved personal funds in a reasonable

1 manner, the department shall furnish to that prisoner the
2 following:

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

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

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

9 (3) When providing for transportation, the department
10 shall:

11 (a) Use the most economical available public
12 transportation.

13 (b) Arrange for and purchase the prisoner's transportation
14 ticket.

15 (c) Assume responsibility for delivering that prisoner to
16 the site of departure and confirming the prisoner's departure
17 from the site.

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

20 Sec. 38. (1) ~~Each~~ A prisoner on parole ~~shall remain~~
21 REMAINS in the legal custody and under the control of the
22 department. A PERSON WHO IS PLACED ON SUPERVISED RELEASE IS
23 SUBJECT TO THE SUPERVISED RELEASE PROVISIONS OF SECTION 34B AND
24 TO THE CONTINUING JURISDICTION OF THE COURT PURSUANT TO
25 SECTION 8A OF CHAPTER IX OF THE CODE OF CRIMINAL PROCEDURE, ACT
26 NO. 175 OF THE PUBLIC ACTS OF 1927, BEING SECTION 769.8A OF THE
27 MICHIGAN COMPILED LAWS. The deputy director of the bureau of

1 field services, upon a showing of probable violation of parole OR
2 SUPERVISED RELEASE, may issue a warrant for the return of any
3 ~~paroled~~ prisoner. Pending a hearing upon any charge of
4 ~~parole~~ A violation OF PAROLE OR SUPERVISED RELEASE, the pris-
5 oner shall remain incarcerated.

6 (2) A prisoner violating the provisions of his or her parole
7 and for whose return a warrant has been issued by the deputy
8 director of the bureau of field services is treated as an escaped
9 prisoner and is liable, when arrested, to serve out the unexpired
10 portion of his or her maximum imprisonment. The time from the
11 date of the declared violation to the date of the prisoner's
12 availability for return to an institution shall not be counted as
13 time served. The warrant of the deputy director of the bureau of
14 field services is a sufficient warrant authorizing all officers
15 named in the warrant to detain the paroled prisoner in any jail
16 of the state until his or her return to the state penal
17 institution. THIS SUBSECTION APPLIES ONLY TO PRISONERS SENTENCED
18 FOR CRIMES COMMITTED ON OR BEFORE THE EFFECTIVE DATE OF THE 1995
19 AMENDATORY ACT THAT AMENDED THIS SECTION.

20 (3) A PERSON WHO VIOLATES 1 OR MORE PROVISIONS OF HIS OR HER
21 SUPERVISED RELEASE, AND FOR WHOM A WARRANT HAS BEEN ISSUED BY THE
22 DEPUTY DIRECTOR OF THE BUREAU OF FIELD SERVICES OR THE SENTENCING
23 COURT, SHALL BE LIABLE TO SERVE OUT IN A STATE CORRECTIONAL
24 FACILITY A PERIOD OF TIME EQUAL TO THE UNEXPIRED PORTION OF HIS
25 OR HER SUPERVISED RELEASE. THIS SUBSECTION APPLIES ONLY TO PER-
26 SONS SENTENCED FOR CRIMES COMMITTED AFTER THE EFFECTIVE DATE OF
27 THE 1995 AMENDATORY ACT THAT AMENDED THIS SECTION.

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

7 (5) ~~(4)~~ The ~~parole~~ OFFENDER REVIEW board, in its discre-
8 tion, may cause the forfeiture of all good time OR DISCIPLINARY
9 CREDITS ACCUMULATED BY A PRISONER, to the date of the declared
10 violation OF PAROLE OR SUPERVISED RELEASE.

11 (6) ~~(5)~~ A ~~prisoner committing~~ PERSON WHO COMMITS a crime
12 ~~while at large on~~ DURING THE PERIOD OF parole OR SUPERVISED
13 RELEASED and ~~being~~ IS convicted and sentenced for the crime
14 shall be treated as to the last incurred term as provided under
15 section 34 OR 34B.

16 (7) ~~(6)~~ A parole shall be construed as a permit to the
17 prisoner to leave the prison, and not as a release. While ~~at~~
18 ~~large~~ ON PAROLE, the paroled prisoner shall be considered to be
19 serving out the sentence imposed by the court and, if he or she
20 is eligible for good time OR DISCIPLINARY CREDITS, shall be enti-
21 tled to good time OR DISCIPLINARY CREDITS the same as if confined
22 in a state correctional facility.

23 Sec. 39. A probation officer, a parole officer, a peace
24 officer of this state, or an employee of the department other
25 than a probation or parole officer who is authorized by the
26 director to arrest ~~parole violators~~ PERSONS WHO VIOLATE PAROLE
27 OR SUPERVISED RELEASE may arrest without a warrant and detain in

1 any jail of this state a ~~paroled prisoner~~ PERSON ON PAROLE OR
2 SUPERVISED RELEASE, if the probation officer, parole officer,
3 peace officer, or authorized departmental employee has reasonable
4 grounds to believe that the ~~prisoner~~ PERSON has violated parole
5 OR SUPERVISED RELEASE or a warrant has been issued for his or her
6 return under section 38.

7 Sec. 39a. (1) Within 10 days after an arrest for A VIOLA-
8 TION OF SUPERVISED RELEASE OTHER THAN AN ALLEGED NEW FELONY, OR
9 WITHIN 10 DAYS AFTER AN ARREST FOR an alleged violation of
10 parole, the ~~parolee shall be~~ PERSON ARRESTED IS entitled EITHER
11 to a preliminary hearing to determine whether there is probable
12 cause to believe that the conditions of parole OR SUPERVISED
13 RELEASE have been violated or TO a fact-finding hearing held pur-
14 suant to section 40a. A PERSON WHO IS ALLEGED TO HAVE COMMITTED
15 A FELONY WHILE ON SUPERVISED RELEASE IS SUBJECT TO THE SENTENCING
16 COURT'S CONTINUING JURISDICTION PURSUANT TO SECTION 8A OF CHAPTER
17 IX OF THE CODE OF CRIMINAL PROCEDURE, ACT NO. 175 OF THE PUBLIC
18 ACTS OF 1927, BEING SECTION 769.8A OF THE MICHIGAN COMPILED LAWS.

19 (2) ~~Prior to~~ BEFORE the preliminary hearing, the accused
20 ~~parolee~~ PERSON shall be given written notice of the charges,
21 time, place, and purpose of the preliminary hearing.

22 (3) At the preliminary hearing, the accused ~~parolee is~~
23 ~~entitled to~~ PERSON HAS the following rights:

24 (a) ~~Disclosure~~ THE RIGHT TO HAVE the evidence against him
25 or her DISCLOSED.

26 (b) The right to testify and present relevant witnesses and
27 documentary evidence.

1 (c) The right to confront and cross-examine adverse
2 witnesses unless the person conducting the preliminary hearing
3 finds on the record that a witness may be subjected to risk of
4 harm if his or her identity is revealed.

5 (4) A preliminary hearing may be postponed beyond the 10-day
6 time limit on the written request of the ~~parolee~~ ACCUSED
7 PERSON, but shall not be postponed by the department.

8 (5) If a preliminary hearing is not held pursuant to subsec-
9 tion (1), an accused ~~parolee~~ PERSON shall be given written
10 notice of the charges against him or her, the time, place and
11 purpose of the fact-finding hearing and a written summary of the
12 evidence to be presented against him or her.

13 (6) If a preliminary hearing is not held pursuant to subsec-
14 tion (1), an accused ~~parolee~~ PERSON may not be found guilty of
15 a violation based on evidence that was not summarized in the
16 notice provided pursuant to subsection (5) except for good cause
17 stated on the record and included in the written findings of fact
18 provided to the ~~parolee~~ PERSON.

19 Sec. 40a. (1) Within 45 days after a ~~paroled prisoner~~
20 PERSON has been returned or is available for return to a state
21 correctional facility under accusation of a VIOLATION OF parole
22 ~~violation~~ OR SUPERVISED RELEASE, other than conviction OF A
23 PAROLE VIOLATOR for a felony or misdemeanor punishable by impris-
24 onment under the laws of this state, the United States, or any
25 other state or territory of the United States OR ALLEGATION OF A
26 FELONY BY A PERSON ON SUPERVISED RELEASE, the ~~prisoner~~ PERSON
27 is entitled to a fact-finding hearing on the charges before 1

1 member of the ~~parole~~ OFFENDER REVIEW board or an attorney
2 hearings officer designated by the chairperson of the ~~parole~~
3 OFFENDER REVIEW board. The fact-finding hearing shall be con-
4 ducted only after the accused ~~parolee~~ PERSON has had a reason-
5 able amount of time to prepare a defense. The fact-finding hear-
6 ing may be held at a state correctional facility or at or near
7 the location of the alleged violation.

8 (2) ~~An~~ THE accused ~~parolee~~ PERSON shall be given written
9 notice of the charges against him or her and the time, place, and
10 purpose of the fact-finding hearing. At the fact-finding hear-
11 ing, the accused ~~parolee~~ PERSON may be represented by an
12 appointed or retained attorney and is entitled to the following
13 rights:

14 (a) Full disclosure of the evidence against him or her.

15 (b) To testify and present relevant witnesses and documen-
16 tary evidence.

17 (c) To confront and cross-examine adverse witnesses unless
18 the person conducting the fact-finding hearing finds on the
19 record that a witness is subject to risk of harm if his or her
20 identity is revealed.

21 (d) To present other relevant evidence in mitigation of the
22 charges.

23 (3) A fact-finding hearing may be postponed for cause beyond
24 the 45-day time limit on the written request of the ~~parolee~~
25 ACCUSED PERSON, the ~~parolee's~~ ACCUSED PERSON'S attorney, or, if
26 a postponement of the preliminary hearing has been granted beyond
27 the 10-day time limit, by the ~~parole~~ OFFENDER REVIEW board.

1 (4) If the evidence presented is insufficient to support the
2 allegation that a ~~parole~~ violation occurred, the ~~parolee~~
3 ACCUSED PERSON shall be reinstated to parole ~~status~~ OR SUPER-
4 VISED RELEASE.

5 (5) If the ~~parole~~ OFFENDER REVIEW board member or hearings
6 officer conducting the fact-finding hearing determines from a
7 preponderance of the evidence that a ~~parole~~ violation has
8 occurred, the BOARD member or hearings officer shall present the
9 relevant facts to the ~~parole~~ board and make a recommendation as
10 to the disposition of the charges.

11 (6) If a preponderance of the evidence supports the allega-
12 tion that a ~~parole~~ violation occurred, the ~~parole~~ board may
13 revoke parole OR SUPERVISED RELEASE, and the ~~parolee~~ PERSON
14 WHOSE STATUS WAS REVOKED shall be provided with a written state-
15 ment of the findings of fact and the reasons for the determina-
16 tion within 60 days after ~~the paroled prisoner~~ HE OR SHE has
17 been returned or is available for return to a state correctional
18 facility.

19 (7) A ~~parolee~~ PERSON who is ordered to make restitution
20 under the crime victim's rights act, Act No. 87 of the Public
21 Acts of 1985, being sections 780.751 to 780.834 of the Michigan
22 Compiled Laws, or the code of criminal procedure, Act No. 175 of
23 the Public Acts of 1927, being sections 760.1 to 776.21 of the
24 Michigan Compiled Laws, or to pay an assessment ordered under
25 section 5 of Act No. 196 of the Public Acts of 1989, being
26 section 780.905 of the Michigan Compiled Laws, as a condition of
27 parole OR SUPERVISED RELEASE may have his or her parole OR

1 SUPERVISED RELEASE revoked by the ~~parole~~ OFFENDER REVIEW board
2 if ~~the parolee~~ HE OR SHE fails to comply with the order and ~~if~~
3 ~~the parolee~~ has not made a good faith effort to comply with the
4 order. In determining whether to revoke A PERSON'S parole OR
5 SUPERVISED RELEASE, the ~~parole~~ OFFENDER REVIEW board shall con-
6 sider the ~~parolee's~~ PERSON'S employment status, earning abili-
7 ty, and financial resources, the willfulness of the ~~parolee's~~
8 PERSON'S failure to comply with the order, and any other special
9 circumstances that may have a bearing on the ~~parolee's~~ PERSON'S
10 ability to comply with the order.

11 Sec. 41. When the ~~parole~~ OFFENDER REVIEW board has
12 ~~determined the matter it~~ MADE A DETERMINATION CONCERNING AN
13 ALLEGED VIOLATION OF PAROLE OR SUPERVISED RELEASE, THE BOARD
14 shall enter an order rescinding ~~such~~ OR REINSTATING parole OR
15 SUPERVISED RELEASE, ~~or reinstating the original order of parole~~
16 or MAY enter such other order as it may see fit.

17 Sec. 42. (1) When ~~any paroled prisoner~~ A PERSON PLACED ON
18 PAROLE OR SUPERVISED RELEASE has faithfully performed all of the
19 conditions and obligations of ~~his~~ parole OR SUPERVISED RELEASE
20 for the period of time fixed in ~~such~~ THE order, and has obeyed
21 all of the rules and regulations adopted by the ~~parole~~ OFFENDER
22 REVIEW board, ~~he~~ THE PERSON shall be ~~deemed~~ CONSIDERED to
23 have served his OR HER full sentence, IN THE CASE OF A PRISONER
24 WHO WAS PLACED ON PAROLE, OR TO HAVE COMPLETED HIS OR HER SUPER-
25 VISED RELEASE, IN THE CASE OF A PRISONER WHO WAS PLACED ON SUPER-
26 VISED RELEASE, and the ~~parole~~ OFFENDER REVIEW board shall enter

1 a final order of discharge and issue to the ~~paroled prisoner~~
 2 PERSON a certificate of discharge.

3 (2) ~~No~~ A parole shall be ~~granted~~ for a period ~~less~~
 4 ~~than~~ OF AT LEAST 2 years in all cases of murder, actual forcible
 5 rape, robbery armed, kidnapping, extortion, or breaking and
 6 entering an occupied dwelling in the night time ~~except where~~
 7 UNLESS the maximum time remaining to be served on ~~the~~ AN
 8 INDETERMINATE sentence is less than 2 years.

9 Sec. 43. All applications for pardons, reprieves and commu-
 10 tations shall be filed with the ~~parole~~ OFFENDER REVIEW board
 11 upon forms provided ~~therefor~~ by the ~~parole~~ board, and shall
 12 contain ~~such~~ THE information, records, and documents ~~as~~ THAT
 13 the ~~parole~~ OFFENDER REVIEW board ~~may by rule require~~
 14 REQUIRES.

15 Sec. 44. (1) Subject to the constitutional authority of the
 16 governor to grant reprieves, commutations, and pardons, 1 member
 17 of the ~~parole~~ OFFENDER REVIEW board shall interview a prisoner
 18 serving a ~~sentence for murder in the first degree or a~~ sentence
 19 of imprisonment for life ~~without parole~~ at the conclusion of 10
 20 calendar years and thereafter as determined appropriate by the
 21 ~~parole~~ OFFENDER REVIEW board, but not later than every 5 years
 22 until such time as the prisoner is granted a reprieve, commuta-
 23 tion, or pardon by the governor, or is deceased. The interview
 24 schedule prescribed in this subsection applies to ~~all~~ prisoners
 25 ~~to whom this section is applicable, whether sentenced before,~~
 26 ~~on, or after the effective date of the 1992 amendatory act that~~
 27 ~~amended this subsection.~~ IN ALL OF THE FOLLOWING CATEGORIES:

1 (A) A PRISONER SENTENCED TO LIFE IMPRISONMENT FOR MURDER IN
2 THE FIRST DEGREE, REGARDLESS OF THE DATE OF SENTENCE.

3 (B) A PRISONER SENTENCED TO A TERM OF LIFE IMPRISONMENT
4 WITHOUT PAROLE.

5 (C) A PRISONER SENTENCED FOR A CRIME COMMITTED AFTER THE
6 EFFECTIVE DATE OF THE 1995 AMENDATORY ACT THAT AMENDED THIS SEC-
7 TION TO A TERM OF LIFE IMPRISONMENT.

8 (2) Upon its own initiation of, or upon receipt of any
9 application for, a reprieve, commutation, or pardon, the ~~parole~~
10 OFFENDER REVIEW board shall do all of the following, as
11 applicable:

12 (a) Not more than 60 days after receipt of an application,
13 conduct a review to determine whether the application for a
14 reprieve, commutation, or pardon has merit.

15 (b) Deliver either the written documentation of the initia-
16 tion or the original application with the ~~parole~~ OFFENDER
17 REVIEW board's determination regarding merit, to the governor and
18 retain a copy of each in its file, pending an investigation and
19 hearing.

20 (c) Within 10 days after initiation, or after determining
21 that an application has merit, forward to the sentencing judge
22 and to the prosecuting attorney of the county having original
23 jurisdiction of the case, or their successors in office, a writ-
24 ten notice of the filing of the application or initiation,
25 together with copies of the application or initiation, any sup-
26 porting affidavits, and a brief summary of the case. Within 30
27 days after receipt of notice of the filing of any application or

1 initiation, the sentencing judge and the prosecuting attorney, or
2 their successors in office, may file information at their dispos-
3 al, together with any objections, in writing, which they may
4 desire to interpose. If the sentencing judge and the prosecuting
5 attorney, or their successors in office, do not respond within 30
6 days, the ~~-parole-~~ OFFENDER REVIEW board shall proceed on the
7 application or initiation.

8 (d) If an application or initiation for commutation is based
9 on physical or mental incapacity, direct the bureau of health
10 care services to evaluate the condition of the prisoner and
11 report on that condition. If the bureau of health care services
12 determines that the prisoner is physically or mentally incapaci-
13 tated, the bureau shall appoint a specialist in the appropriate
14 field of medicine, who is not employed by the department, to
15 evaluate the condition of the prisoner and to report on that
16 condition. These reports are protected by the doctor-patient
17 privilege of confidentiality, except that these reports shall be
18 provided to the governor for his or her review.

19 (e) Within 270 days after initiation by the ~~-parole-~~
20 OFFENDER REVIEW board or receipt of an application that the
21 ~~-parole-~~ OFFENDER REVIEW board has determined to have merit pur-
22 suant to subdivision (a), make a full investigation and determi-
23 nation on whether or not to proceed to a public hearing.

24 (f) Conduct a public hearing not later than 90 days after
25 making a decision to proceed with consideration of a recommenda-
26 tion for the granting of a reprieve, commutation, or pardon. The
27 public hearing shall be held before a formal recommendation is

1 transmitted to the governor. One member of the ~~parole~~ OFFENDER
2 REVIEW board who will be involved in the formal recommendation
3 may conduct the hearing, and the public shall be represented by
4 the attorney general or a member of the attorney general's
5 staff.

6 (g) At least 30 days before conducting the public hearing,
7 provide written notice of the public hearing by mail to the
8 attorney general, the sentencing trial judge, and the prosecuting
9 attorney, or their successors in office, and each victim who
10 requests notice pursuant to the crime victim's rights act, Act
11 No. 87 of the Public Acts of 1985, being sections 780.751 to
12 780.834 of the Michigan Compiled Laws.

13 (h) Conduct the public hearing pursuant to the rules promul-
14 gated by the department. Except as otherwise provided in this
15 subdivision, any person having information in connection with the
16 pardon, commutation, or reprieve shall be sworn as a witness. A
17 person who is a victim shall be given an opportunity to address
18 and be questioned by the ~~parole~~ OFFENDER REVIEW board at the
19 hearing or to submit written testimony for the hearing. In hear-
20 ing testimony, the ~~parole~~ OFFENDER REVIEW board shall give
21 liberal construction to any technical rules of evidence.

22 (i) Transmit its formal recommendation to the governor.

23 (j) Make all data in its files available to the governor if
24 the ~~parole~~ OFFENDER REVIEW board recommends the granting of a
25 reprieve, commutation, or pardon.

26 (3) Except for medical records protected by the
27 doctor-patient privilege of confidentiality, the files of the

1 ~~parole~~ OFFENDER REVIEW board in cases under this section shall
2 be matters of public record.

3 Sec. 45. In the conduct of any hearing or investigation ~~as~~
4 ~~herein provided~~ BY THE OFFENDER REVIEW BOARD, any member of the
5 ~~parole~~ OFFENDER REVIEW board may administer the oath to ~~any~~ A
6 witness.

7 Sec. 46. All decisions and recommendations of the ~~parole~~
8 OFFENDER REVIEW board required by this act shall be by a majority
9 vote of the ~~parole~~ OFFENDER REVIEW board or a ~~parole board~~
10 panel created pursuant to section 6(2).

11 Sec. 64. The assistant director in charge of the bureau of
12 penal institutions shall ~~have authority and it shall be his duty~~
13 ~~to classify the prisoners in the several penal institutions.~~
14 He- CORRECTIONAL FACILITIES. THE ASSISTANT DIRECTOR shall,
15 subject to the approval of the director, promulgate regulations
16 under which there shall be organized in each ~~penal institution,~~
17 CORRECTIONAL FACILITY a classification committee from the staff
18 of ~~such penal institution~~ THAT CORRECTIONAL FACILITY, which
19 committee shall perform ~~such services and in such~~ SERVICES IN A
20 manner as the assistant director in charge of the bureau of penal
21 institutions ~~shall require. It shall be the duty of each such~~
22 REQUIRES. EACH classification committee ~~to~~ SHALL obtain and
23 file complete information with regard to each prisoner ~~sentenced~~
24 ~~under an indeterminate sentence at the time such~~ WHEN THE pris-
25 oner is received in ~~any penal institution. It shall be the duty~~
26 ~~of the~~ A CORRECTIONAL FACILITY. THE clerk of the court and ~~of~~
27 all probation officers and other officials ~~to send such~~

1 ~~information as may be~~ SHALL SEND INFORMATION in their possession
2 or under their control to each ~~such~~ classification committee
3 when ~~and in such~~ REQUESTED TO DO SO, IN THE manner as they ~~may~~
4 ~~be~~ ARE directed. When all such existing available records have
5 been assembled, each ~~such~~ classification committee shall deter-
6 mine whether any further investigation is necessary, and, if so,
7 ~~it~~ shall make ~~such~~ THAT investigation. ~~All such~~ THE infor-
8 mation shall be filed with the ~~parole~~ OFFENDER REVIEW board so
9 as to be readily available when the parole of the prisoner is to
10 be considered OR THE PERSON IS TO BE PLACED ON SUPERVISED
11 RELEASE.

12 Sec. 65. (1) Under rules promulgated by the director of the
13 department, the assistant director in charge of the bureau of
14 correctional facilities, except as otherwise provided in this
15 section, may cause the transfer or re-transfer of a prisoner from
16 a correctional facility to which committed to any other correc-
17 tional facility, or temporarily to a state institution for medi-
18 cal or surgical treatment. In effecting a transfer, the assist-
19 ant director of the bureau of correctional facilities may utilize
20 the services of an executive or employee within the department
21 and of a law enforcement officer of the state.

22 (2) A prisoner who is subject to disciplinary time and is
23 committed to the jurisdiction of the department shall be confined
24 in a secure correctional facility for the duration of his or her
25 ~~minimum~~ DETERMINATE sentence plus disciplinary time, except for
26 periods when the prisoner is away from the secure correctional

1 facility while being supervised by an employee of the department
2 for 1 of the following purposes:

3 (a) Visiting a critically ill relative.

4 (b) Attending the funeral of a relative.

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

7 (d) Participating in a work detail.

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

19 (4) Not less than 45 days before approval of a transfer pur-
20 suant to subsection (3) from this state to another country, the
21 governor, or the governor's designee, shall notify the sentencing
22 judge and the prosecuting attorney of the county having original
23 jurisdiction, or their successors in office, of the request for
24 transfer. The notification shall indicate any name changes of
25 the offender subsequent to sentencing. Within 20 days after
26 receiving such notification, the judge or prosecutor may send to
27 the governor, or the governor's designee, information about the

1 criminal action against the offender or objections to the
2 transfer. Objections to the transfer shall not preclude approval
3 of the transfer.

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

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

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

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

14 Sec. 65a. (1) Under prescribed conditions, the director may
15 extend the limits of confinement of a prisoner when there is rea-
16 sonable assurance, after consideration of all facts and circum-
17 stances, that the prisoner will not become a menace to society or
18 to the public safety, by authorizing the prisoner to do any of
19 the following:

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

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

3 (c) Work at paid employment, participate in a training or
4 educational program, or participate in a community residential
5 drug treatment program while continuing as a prisoner housed on a
6 voluntary basis at a community corrections center or in a commu-
7 nity residential home.

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

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

17 (4) A prisoner, other than a prisoner subject to disci-
18 plinary time, who is convicted of a crime of violence or any
19 assaultive crime is not eligible for the extensions of the limits
20 of confinement provided in subsection (1) until the minimum OR
21 DETERMINATE sentence imposed for the crime has less than 180 days
22 remaining. A prisoner subject to disciplinary time is not eligi-
23 ble for the extensions of the limits of confinement provided in
24 subsection (1) until he or she has served the ~~minimum~~ sentence
25 imposed for the crime plus any disciplinary time. However, if
26 the reason for the extension is to visit a critically ill
27 relative, attend the funeral of a relative, or obtain medical

1 services not otherwise available, the director may allow the
2 extension under escort as provided in subsection (1).

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

8 (6) As used in this section:

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

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

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

22 Sec. 65d. (1) Whenever either of the following occurs, the
23 department shall make an entry in the law enforcement information
24 network:

25 (a) A prisoner escapes from a state correctional facility.

26 (b) A ~~parole violation~~ warrant FOR VIOLATION OF PAROLE OR
27 SUPERVISED RELEASE is issued.

1 (2) Whenever any of the following occurs, the department
2 shall make available on line to the law enforcement information
3 network, by way of the corrections management information system,
4 the following information:

5 (a) A prisoner is transferred into a community residential
6 program.

7 (b) A prisoner is transferred into a minimum custody correc-
8 tional facility of any kind, including a correctional camp or
9 work camp.

10 (c) A person's parole OR SUPERVISED RELEASE status changes.

11 (3) An entry under subsection (1), or information under sub-
12 section (2), shall be entered or made available not later than 24
13 hours after the event occurs, and shall include the prisoner's
14 name, physical descriptors, the remaining term of his or her sen-
15 tence, and any other information determined relevant by the
16 department.

17 (4) As used in this section, "state correctional facility"
18 means a facility or institution which houses a prisoner popula-
19 tion under the jurisdiction of the department.

20 Sec. 65g. As used in this section and sections 65h and
21 65i:

22 (a) "Community corrections center" means that term as
23 defined in section 65a.

24 (b) "Community residential home" means that term as defined
25 in section 65a.

26 (c) "Community status criteria" means the criteria for
27 determining which prisoners are eligible to be placed in

1 community corrections facilities as prescribed in section
 2 ~~65(g)(1)~~ 65H(1).

3 (d) "Council" means a citizens' council formed under
 4 section 65i(1).

5 (e) "Prisoner" means a person who is under the jurisdiction
 6 of the department and has not been ~~released~~ PLACED on parole,
 7 SUPERVISED RELEASE, or discharged.

8 (f) "State correctional facility" means that term as defined
 9 in section 65a.

10 Section 2. Section 31a of Act No. 232 of the Public Acts of
 11 1953, being section 791.231a of the Michigan Compiled Laws, is
 12 repealed.

13 Section 3. This amendatory act shall take effect on the
 14 effective date of the act by which the legislature enacts sen-
 15 tencing guidelines into law pursuant to section 33 of chapter IX
 16 of the code of criminal procedure, Act No. 175 of the Public Acts
 17 of 1927, being section 769.33 of the Michigan Compiled Laws.

18 Section 4. This amendatory act shall not take effect unless
 19 all of the following bills of the 88th Legislature are enacted
 20 into law:

21 (a) Senate Bill No. _____ or House Bill No. 5033
 22 (request no. 01456'95 *).

23 (b) Senate Bill No. _____ or House Bill No. 5034
 24 (request no. 01456'95 b *).