

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 838**

A bill to amend 1953 PA 232, entitled

"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 allow for the operation of certain facilities by private entities; 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,"

by amending sections 11a, 51, and 56 (MCL 791.211a, 791.251, and 791.256), sections 11a and 56 as added by 1994 PA 93 and section 51 as amended by 1994 PA 217.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11a. (1) The director of corrections may enter into
2 contracts on behalf of this state as the director considers
3 appropriate to implement the participation of this state in the
4 interstate corrections compact pursuant to article III of the
5 interstate corrections compact. The contracts may authorize con-
6 finement of prisoners in, or transfer of prisoners from, correc-
7 tional facilities under the jurisdiction of the department of
8 corrections. A contract shall not authorize the confinement of a
9 prisoner who is in the custody of the department in an institu-
10 tion of a state other than a state that is a party to the inter-
11 state corrections compact. WHEN TRANSFERRING PRISONERS TO INSTI-
12 TUTIONS OF OTHER STATES UNDER THIS SECTION, THE DIRECTOR SHALL
13 ENDEAVOR TO ENSURE THAT THE TRANSFERS DO NOT DISPROPORTIONATELY
14 AFFECT GROUPS OF PRISONERS ACCORDING TO RACE, RELIGION, COLOR,
15 CREED, OR NATIONAL ORIGIN.

16 (2) The director of corrections shall first determine, on
17 the basis of an inspection made by his or her direction, that an
18 institution of another state is a suitable place for confinement
19 of prisoners committed to his or her custody before entering into
20 a contract permitting that confinement, and shall, at least annu-
21 ally, redetermine the suitability of that confinement. In deter-
22 mining the suitability of an institution of another state, the
23 director shall determine that the institution maintains standards
24 of care and discipline not incompatible with those of this state
25 and that all inmates confined in that institution are treated

1 equitably, regardless of race, religion, color, creed, or
2 national origin.

[(3) IN CONSIDERING TRANSFERS OF PRISONERS OUT-OF-STATE
PURSUANT TO THE INTERSTATE CORRECTIONS COMPACT DUE TO BED SPACE
NEEDS THE DEPARTMENT SHALL DO ALL OF THE FOLLOWING:

(A) CONSIDER FIRST PRISONERS WHO VOLUNTEER TO TRANSFER AS LONG
AS THEY MEET THE ELIGIBILITY CRITERIA FOR SUCH TRANSFER.

(B) PROVIDE LAW LIBRARY MATERIALS INCLUDING MICHIGAN COMPILED
LAWS, MICHIGAN STATE AND FEDERAL CASES, AND U.S. SIXTH CIRCUIT COURT
CASES.

(C) NOT TRANSFER A PRISONER WHO HAS A SIGNIFICANT MEDICAL OR
MENTAL HEALTH NEED.

(D) USE OBJECTIVE CRITERIA IN DETERMINING WHICH PRISONERS TO
TRANSFER.

(4) UNLESS A PRISONER CONSENTS IN WRITING, A PRISONER
TRANSFERRED UNDER THE INTERSTATE CORRECTIONS COMPACT DUE TO BED
SPACE NEEDS SHALL NOT BE CONFINED IN ANOTHER STATE FOR MORE THAN 1
YEAR.

(5) A PRISONER WHO IS TRANSFERRED TO AN INSTITUTION OF ANOTHER
STATE UNDER THIS SECTION SHALL RECEIVE ALL OF THE FOLLOWING WHILE IN
THE RECEIVING STATE:

(A) MAIL SERVICES AND ACCESS TO THE COURT.

(B) VISITING AND TELEPHONE PRIVILEGES.

(C) OCCUPATIONAL AND VOCATIONAL PROGRAMS SUCH AS GED-ABE AND
APPROPRIATE VOCATIONAL PROGRAMS FOR HIS OR HER LEVEL OF CUSTODY.

(D) PROGRAMS SUCH A SUBSTANCE ABUSE PROGRAMS, SEX OFFENDER
PROGRAMS, AND LIFE SKILLS DEVELOPMENT.

(E) ROUTINE AND EMERGENCY HEALTH CARE, DENTAL CARE, AND MENTAL
HEALTH SERVICES.]

3 ~~-(3) Unless the transfer is required to protect the~~
4 ~~prisoner's personal safety, a prisoner shall not be transferred~~
5 ~~to another state for confinement unless the prisoner consents in~~
6 ~~writing to the transfer.~~

7 [(4)] One year after ~~the effective date of the amenda-~~
8 ~~tory act that added this section~~ APRIL 13, 1994 and annually
9 after that date, the department shall report all of the following
10 to the senate and house ~~corrections~~ committees RESPONSIBLE FOR
11 LEGISLATION CONCERNING CORRECTIONS and TO THE appropriations sub-
12 committees on corrections:

13 (a) The number of prisoners transferred to or from correc-
14 tional facilities in this state pursuant to the interstate cor-
15 rections compact.

16 (b) The cost to the state of the transfers described in sub-
17 division (a).

18 (c) The reasons for the transfers described in subdivision
19 (a).

20 Sec. 51. (1) There is created within the department a hear-
21 ings division. The division is under the direction and supervi-
22 sion of the hearings administrator who is appointed by the direc-
23 tor of the department.

24 (2) ~~The~~ EXCEPT AS PROVIDED IN SUBSECTION (4), THE hearings
25 division is responsible for each prisoner hearing the department
26 conducts that may result in the loss by a prisoner of a right,

1 including but not limited to any 1 or more of the following
2 matters:

3 (a) An infraction of a prison rule that may result in puni-
4 tive segregation, loss of disciplinary credits, or the loss of
5 good time.

6 (b) A security classification that may result in the place-
7 ment of a prisoner in administrative segregation.

8 (c) A special designation that permanently excludes, by
9 department policy or rule, a person under the jurisdiction of the
10 department from community placement.

11 (d) Visitor restrictions.

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

13 (3) [The] hearings
14 division is responsible for each prisoner hearing that may result
15 in the accumulation of disciplinary time.

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20 [(4)] The hearings division is not responsible for a
21 prisoner hearing that is conducted as a result of a minor miscon-
22 duct charge that would not cause a loss of good time or disci-
23 plinary credits, or result in placement in punitive segregation.

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

1 Sec. 56. (1) A prisoner sentenced under the laws of this
2 state who is imprisoned in another state pursuant to the inter-
3 state corrections compact is entitled to ~~all~~ hearings ~~, within~~
4 ~~120 days of the time and under the same standards, that are nor-~~
5 ~~mally accorded to prisoners similarly sentenced and confined in~~
6 ~~correctional facilities in this state. If a prisoner consents in~~
7 ~~writing, a hearing may be conducted by the corresponding agencies~~
8 ~~or officials of the other state. However, this~~ PURSUANT TO SUB-
9 SECTION (6) OF ARTICLE IV OF THE INTERSTATE CORRECTIONS COMPACT.

10 (2) A PRISONER IS NOT ENTITLED TO A HEARING PRIOR TO HIS OR
11 HER TRANSFER TO AN INSTITUTION OF ANOTHER STATE PURSUANT TO THE
12 INTERSTATE CORRECTIONS COMPACT.

13 (3) THIS section shall not impair or abrogate the rights of
14 crime victims, including but not limited to those rights provided
15 under the crime victim's rights act, ~~Act No. 87 of the Public~~
16 ~~Acts of 1985, being sections 780.751 to 780.834 of the Michigan~~
17 ~~Compiled Laws. The department shall hold a hearing that is~~
18 ~~requested by another state or by a prisoner pursuant to this sec-~~
19 ~~tion or subsection (6) of article IV of the interstate correc-~~
20 ~~tions compact~~ 1985 PA 87, MCL 780.751 TO 780.834.