

HOUSE SUBSTITUTE FOR  
SENATE BILL NO. 1222

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 20g, 29, 34, 63, 63a, 65, 69a, and 70 (MCL 791.220g, 791.229, 791.234, 791.263, 791.263a, 791.265, 791.269a, and 791.270), section 20g as added by 1996 PA 164, section 34 as

**SB1222, As Passed House, December 9, 1998**

Senate Bill No. 1222

2

amended by 1998 PA 315, section 65 as amended by 1994 PA 217, section 69a as added by 1990 PA 42, and section 70 as added by 1993 PA 255.

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

1           Sec. 20g. (1) The department may establish a youth correc-  
2 tional facility which shall house only prisoners committed to the  
3 jurisdiction of the department who are 19 years of age or less  
4 and who were within the jurisdiction of 1 OF the FOLLOWING  
5 COURTS:

6           (A) THE circuit court or the recorder's court of the city of  
7 Detroit under section 606 of the revised judicature act of 1961,  
8 ~~Act No. 236 of the Public Acts of 1961, being section 600.606 of~~  
9 ~~the Michigan Compiled Laws 1961 PA 236, MCL 600.606, OR section~~  
10 ~~10a(1)(c) of Act No. 369 of the Public Acts of 1919, being sec-~~  
11 ~~tion 725.10a of the Michigan Compiled Laws, or 1919 PA 369, MCL~~  
12 ~~725.10A.~~

13           (B) THE COURT HAVING GENERAL CRIMINAL JURISDICTION PURSUANT  
14 TO A WAIVER OF JURISDICTION BY THE JUVENILE DIVISION OF THE PRO-  
15 BATE COURT OR THE FAMILY DIVISION OF CIRCUIT COURT UNDER section  
16 4 of chapter XIIIA of ~~Act No. 288 of the Public Acts of 1939,~~  
17 ~~being section 712A.4 of the Michigan Compiled Laws 1939 PA 288,~~  
18 MCL 712A.4.

19           (C) THE JUVENILE DIVISION OF THE PROBATE COURT OR THE FAMILY  
20 DIVISION OF CIRCUIT COURT IN A CASE DESIGNATED UNDER SECTION 2D  
21 OF CHAPTER XIIIA OF 1939 PA 288, MCL 712A.2D.

**SB1222, As Passed House, December 9, 1998**

Senate Bill No. 1222

3

1           (2) The department may establish and operate the youth  
2 correctional facility or may contract on behalf of the state with  
3 a private vendor for the construction or operation, or both, of  
4 the youth correctional facility. If the department contracts  
5 with a private vendor to construct, rehabilitate, develop, reno-  
6 vate, or operate any existing or anticipated facility pursuant to  
7 this section, the department shall require a written certifica-  
8 tion from the private vendor regarding all of the following:

9           (a) If practicable to efficiently and effectively complete  
10 the project, the private vendor shall follow a competitive bid  
11 process for the construction, rehabilitation, development, or  
12 renovation of the facility, and this process shall be open to all  
13 Michigan residents and firms. The private vendor shall not dis-  
14 criminate against any contractor on the basis of its affiliation  
15 or nonaffiliation with any collective bargaining organization.

16           (b) The private vendor shall make a good faith effort to  
17 employ, if qualified, Michigan residents at the facility.

18           (c) The private vendor shall make a good faith effort to  
19 employ or contract with Michigan residents and firms to con-  
20 struct, rehabilitate, develop, or renovate the facility.

21           (3) If the department contracts with a private vendor for  
22 the operation of the youth correctional facility, the department  
23 shall require by contract that the personnel employed by the pri-  
24 vate vendor in the operation of the facility be certified as cor-  
25 rectional officers to the same extent as would be required if  
26 those personnel were employed in a correctional facility operated  
27 by the department. The department also shall require by contract

**SB1222, As Passed House, December 9, 1998**

Senate Bill No. 1222

4

1 that the private vendor meet requirements specified by the  
2 department regarding security, protection of the public, inspec-  
3 tions by the department, programming, liability and insurance,  
4 conditions of confinement, educational services required under  
5 subsection (8), and any other issues the department considers  
6 necessary for the operation of the youth correctional facility.  
7 The department shall also require that the contract include pro-  
8 visions to protect the public's interest if the private vendor  
9 defaults on the contract. Before finalizing a contract with a  
10 private vendor for the construction or operation of the youth  
11 correctional facility, the department shall submit the proposed  
12 contract to the standing committees of the senate and the house  
13 of representatives having jurisdiction of corrections issues, the  
14 corrections subcommittees of the standing committees on appropri-  
15 ations of the senate and the house of representatives, and, with  
16 regard to proposed construction contracts, the joint committee on  
17 capital outlay. A contract between the department and a private  
18 vendor for the construction or operation of the youth correc-  
19 tional facility shall be contingent upon appropriation of the  
20 required funding. If the department contracts with a private  
21 vendor under this section, the selection of that private vendor  
22 shall be by open, competitive bid.

23 (4) The department shall not site a youth correctional  
24 facility under this section in a city, village, or township  
25 unless the local legislative body of that city, village, or town-  
26 ship adopts a resolution approving the location.

**SB1222, As Passed House, December 9, 1998**

Senate Bill No. 1222

5

1 (5) A private vendor operating a youth correctional facility  
2 under a contract under this section shall not do any of the  
3 following, unless directed to do so by the department policy:

4 (a) Calculate inmate release and parole eligibility dates.

5 (b) Award good time or disciplinary credits, or impose dis-  
6 ciplinary time.

7 (c) Approve inmates for extensions of limits of  
8 confinement.

9 (6) The youth correctional facility shall be open to visits  
10 during all business hours, and during nonbusiness hours unless an  
11 emergency prevents it, by any elected state senator or state  
12 representative.

13 (7) Once each year, the department shall report on the oper-  
14 ation of the facility. Copies of the report shall be submitted  
15 to the chairpersons of the house and senate committees responsi-  
16 ble for legislation on corrections or judicial issues, and to the  
17 clerk of the house of representatives and the secretary of the  
18 senate.

19 (8) Regardless of whether the department itself operates the  
20 youth correctional facility or contracts with a private vendor to  
21 operate the youth correctional facility, all of the following  
22 educational services shall be provided for juvenile prisoners  
23 housed at the facility who have not earned a high school diploma  
24 or received a general education certificate (GED):

25 (a) The department or private vendor shall require that a  
26 prisoner whose academic achievement level is not sufficient to  
27 allow the prisoner to participate effectively in a program

**SB1222, As Passed House, December 9, 1998**

Senate Bill No. 1222

6

1 leading to the attainment of a GED certificate participate in  
2 classes that will prepare him or her to participate effectively  
3 in the GED program, and shall provide those classes in the  
4 facility.

5 (b) The department or private vendor shall require that a  
6 prisoner who successfully completes classes described in  
7 subdivision (a), or whose academic achievement level is otherwise  
8 sufficient, participate in classes leading to the attainment of a  
9 GED certificate, and shall provide those classes.

10 (9) Neither the department nor the private vendor shall seek  
11 to have the youth correctional facility authorized as a public  
12 school academy under the revised school code, ~~Act No. 451 of the~~  
13 ~~Public Acts of 1976, being sections 380.1 to 380.1852 of the~~  
14 ~~Michigan Compiled Laws~~ 1976 PA 451, MCL 380.1 TO 380.1852.

15 (10) A private vendor that operates the youth correctional  
16 facility under a contract with the department shall provide writ-  
17 ten notice of its intention to discontinue its operation of the  
18 facility. This subsection does not authorize or limit liability  
19 for a breach or default of contract. If the reason for the dis-  
20 continuance is that the private vendor intends not to renew the  
21 contract, the notice shall be delivered to the director of the  
22 department at least 1 year before the contract expiration date.  
23 If the discontinuance is for any other reason, the notice shall  
24 be delivered to the director of the department at least 6 months  
25 before the date on which the private vendor will discontinue its  
26 operation of the facility. This subsection does not authorize or  
27 limit liability for a breach or default of contract.

**SB1222, As Passed House, December 9, 1998**

Senate Bill No. 1222

7

1       Sec. 29. All records and reports of investigations made by  
2 a probation officer, and all case histories of probationers shall  
3 be privileged or confidential communications not open to public  
4 inspection. Judges and probation officers shall have access to  
5 the records, reports, and case histories. The probation officer,  
6 the assistant director of probation, or the assistant director's  
7 representative ~~—~~ shall permit the attorney general, the auditor  
8 general, and law enforcement agencies to have access to the  
9 records, reports, and case histories AND SHALL PERMIT DESIGNATED  
10 REPRESENTATIVES OF A PRIVATE VENDOR THAT OPERATES A YOUTH CORREC-  
11 TIONAL FACILITY UNDER SECTION 20G TO HAVE ACCESS TO THE RECORDS,  
12 REPORTS, AND CASE HISTORIES PERTAINING TO PRISONERS ASSIGNED TO  
13 THE YOUTH CORRECTIONAL FACILITY. The relation of confidence  
14 between the probation officer and probationer or defendant under  
15 investigation shall remain inviolate.

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

24       (2) Except as provided in section 34a, a prisoner subject to  
25 disciplinary time sentenced to an indeterminate sentence and con-  
26 fined in a state correctional facility with a minimum in terms of  
27 years is subject to the jurisdiction of the parole board when the

**SB1222, As Passed House, December 9, 1998**

Senate Bill No. 1222

8

1 prisoner has served a period of time equal to the minimum  
2 sentence imposed by the court for the crime of which he or she  
3 was convicted.

4       (3) If a prisoner other than a prisoner subject to disci-  
5 plinary time is sentenced for consecutive terms, whether received  
6 at the same time or at any time during the life of the original  
7 sentence, the parole board has jurisdiction over the prisoner for  
8 purposes of parole when the prisoner has served the total time of  
9 the added minimum terms, less the good time and disciplinary  
10 credits allowed by statute. The maximum terms of the sentences  
11 shall be added to compute the new maximum term under this subsec-  
12 tion, and discharge shall be issued only after the total of the  
13 maximum sentences has been served less good time and disciplinary  
14 credits, unless the prisoner is paroled and discharged upon sat-  
15 isfactory completion of the parole.

16       (4) If a prisoner subject to disciplinary time is sentenced  
17 for consecutive terms, whether received at the same time or at  
18 any time during the life of the original sentence, the parole  
19 board has jurisdiction over the prisoner for purposes of parole  
20 when the prisoner has served the total time of the added minimum  
21 terms. The maximum terms of the sentences shall be added to com-  
22 pute the new maximum term under this subsection, and discharge  
23 shall be issued only after the total of the maximum sentences has  
24 been served, unless the prisoner is paroled and discharged upon  
25 satisfactory completion of the parole.

26       (5) If a prisoner other than a prisoner subject to  
27 disciplinary time has 1 or more consecutive terms remaining to

**SB1222, As Passed House, December 9, 1998**

Senate Bill No. 1222

9

1 serve in addition to the term he or she is serving, the parole  
2 board may terminate the sentence the prisoner is presently serv-  
3 ing at any time after the minimum term of the sentence has been  
4 served.

5       (6) A prisoner under sentence for life or for a term of  
6 years, other than a prisoner sentenced for life for murder in the  
7 first degree, or sentenced for life for a violation of  
8 chapter XXXIII of the Michigan penal code, 1931 PA 328,  
9 MCL 750.200 to 750.212a, who has served 10 calendar years of the  
10 sentence in the case of a prisoner sentenced for any other crime  
11 committed before October 1, 1992, or, except as provided in sub-  
12 section ~~-(10)-~~ (9), who has served 20 calendar years of the sen-  
13 tence in the case of a prisoner sentenced to imprisonment for  
14 life for violating or conspiring to violate section 7401(2)(a)(i)  
15 of the public health code, 1978 PA 368, MCL 333.7401, who has  
16 another conviction for a serious crime, or, except as provided in  
17 subsection ~~-(10)-~~ (9), who has served 17-1/2 calendar years of  
18 the sentence in the case of a prisoner sentenced to imprisonment  
19 for life for violating or conspiring to violate section  
20 7401(2)(a)(i) of the public health code, 1978 PA 368,  
21 MCL 333.7401, who does not have another conviction for a serious  
22 crime, or who has served 15 calendar years of the sentence in the  
23 case of a prisoner sentenced for any other crime committed on or  
24 after October 1, 1992, is subject to the jurisdiction of the  
25 parole board and may be released on parole by the parole board,  
26 subject to the following conditions:

**SB1222, As Passed House, December 9, 1998**

Senate Bill No. 1222

10

1 (a) At the conclusion of 10 calendar years of the prisoner's  
2 sentence and every 5 years thereafter until the prisoner is  
3 paroled, discharged, or deceased, and in accordance with the pro-  
4 cedures described in section 35(4) to (6), 1 member of the parole  
5 board shall interview the prisoner. The interview schedule pre-  
6 scribed in this subdivision applies to all prisoners to whom this  
7 subsection is applicable, regardless of the date on which they  
8 were sentenced.

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 and 45. Notice of the  
12 public hearing shall be given to the sentencing judge, or the  
13 judge's successor in office, and parole shall not be granted if  
14 the sentencing judge, or the judge's successor in office, files  
15 written objections to the granting of the parole within 30 days  
16 of receipt of the notice of hearing. The written objections  
17 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 board. A parole  
21 ordered under this subsection is not valid until the transcript  
22 of the record is filed with the attorney general whose certifica-  
23 tion of receipt of the transcript shall be returnable to the  
24 office of the parole board within 5 days. Except for medical  
25 records protected under section 2157 of the revised judicature  
26 act of 1961, 1961 PA 236, MCL 600.2157, the file of a prisoner  
27 granted a parole under this subsection is a public record.

**SB1222, As Passed House, December 9, 1998**

Senate Bill No. 1222

11

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

5 (7) In determining whether a prisoner convicted of violating  
6 or conspiring to violate section 7401(2)(a)(i) of the public  
7 health code, 1978 PA 368, MCL 333.7401, and sentenced to impris-  
8 onment for life before October 1, 1998 is to be released on  
9 parole, the parole board shall consider all of the following:

10 (a) Whether the violation was part of a continuing series of  
11 violations of section 7401 or 7403 of the public health code,  
12 1978 PA 368, MCL 333.7401 and 333.7403, by that individual.

13 (b) Whether the violation was committed by the individual in  
14 concert with 5 or more other individuals.

15 (c) Any of the following:

16 (i) Whether the individual was a principal administrator,  
17 organizer, or leader of an entity that the individual knew or had  
18 reason to know was organized, in whole or in part, to commit vio-  
19 lations of section 7401 or 7403 of the public health code, 1978  
20 PA 368, MCL 333.7401 and 333.7403, and whether the violation for  
21 which the individual was convicted was committed to further the  
22 interests of that entity.

23 (ii) Whether the individual was a principal administrator,  
24 organizer, or leader of an entity that the individual knew or had  
25 reason to know committed violations of section 7401 or 7403 of  
26 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403,

**SB1222, As Passed House, December 9, 1998**

Senate Bill No. 1222

12

1 and whether the violation for which the individual was convicted  
2 was committed to further the interests of that entity.

3       (iii) Whether the violation was committed in a drug-free  
4 school zone.

5       (iv) Whether the violation involved the delivery of a con-  
6 trolled substance to an individual less than 17 years of age or  
7 possession with intent to deliver a controlled substance to an  
8 individual less than 17 years of age.

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

17       (9) If the sentencing judge, or his or her successor in  
18 office, determines on the record that a prisoner described in  
19 subsection (6) sentenced to imprisonment for life for violating  
20 or conspiring to violate section 7401(2)(a)(i) of the public  
21 health code, 1978 PA 368, MCL 333.7401, has cooperated with law  
22 enforcement, the prisoner is subject to the jurisdiction of the  
23 parole board and may be released on parole as provided in subsec-  
24 tion (6), 2-1/2 years earlier than the time otherwise indicated  
25 in subsection (6). The prisoner is considered to have cooperated  
26 with law enforcement if the court determines on the record that  
27 the prisoner had no relevant or useful information to provide.

**SB1222, As Passed House, December 9, 1998**

Senate Bill No. 1222

13

1 The court shall not make a determination that the prisoner failed  
2 or refused to cooperate with law enforcement on grounds that the  
3 defendant exercised his or her constitutional right to trial by  
4 jury. If the court determines at sentencing that the defendant  
5 cooperated with law enforcement, the court shall include its  
6 determination in the judgment of sentence.

7 (10) As used in this section:  ~~, "serious"~~

8 (A) "SERIOUS crime" means violating or conspiring to violate  
9 article 7 of the public health code, 1978 PA 368, MCL 333.7101 to  
10 333.7545, that is punishable by imprisonment for more than 4  
11 years, or an offense against a person in violation of section 83,  
12 84, 86, 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b,  
13 520c, 520d, 520g, 529, 529a, or 530 of the Michigan penal code,  
14 1931 PA 328, MCL 750.83, 750.84, 750.86, 750.87, 750.88, 750.89,  
15 750.316, 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397,  
16 750.520b, 750.520c, 750.520d, 750.520g, 750.529, 750.529a, and  
17 750.530.

18 (B) "STATE CORRECTIONAL FACILITY" MEANS A FACILITY THAT  
19 HOUSES PRISONERS COMMITTED TO THE JURISDICTION OF THE DEPARTMENT,  
20 AND INCLUDES A YOUTH CORRECTIONAL FACILITY OPERATED UNDER SECTION  
21 20G BY THE DEPARTMENT OR A PRIVATE VENDOR.

22 Sec. 63. (1) The wardens of the ~~several penal~~  
23 ~~institutions~~ CORRECTIONAL FACILITIES of this state shall be  
24 appointed by the director of corrections and ~~such wardens~~ shall  
25 be within the state civil service. The assistant director in  
26 charge of the bureau of ~~penal institutions~~ CORRECTIONAL  
27 FACILITIES shall, subject to the approval of the director,

**SB1222, As Passed House, December 9, 1998**

Senate Bill No. 1222

14

1 appoint ~~such~~ personnel within the bureau as may be necessary.  
2 ~~:- Provided, That members~~ MEMBERS of the staff and employees of  
3 each ~~penal institution in this state~~ CORRECTIONAL FACILITY  
4 shall be appointed by the warden subject to the approval of the  
5 director.

6 (2) AS USED IN THIS SECTION, "CORRECTIONAL FACILITY" DOES  
7 NOT INCLUDE A YOUTH CORRECTIONAL FACILITY AUTHORIZED UNDER SEC-  
8 TION 20G IF THAT FACILITY IS OPERATED BY A PRIVATE VENDOR.

9 Sec. 63a. (1) A person employed by ~~a penal institution in~~  
10 ~~this state~~ THE DEPARTMENT OF CORRECTIONS IN A CORRECTIONAL  
11 FACILITY who is injured as a result of an assault by ~~an inmate~~  
12 ~~of a penal institution~~ A PRISONER HOUSED IN THE CORRECTIONAL  
13 FACILITY or injured during a riot shall receive his OR HER full  
14 wages by the department of corrections until ~~workmen's~~ WORKER'S  
15 compensation benefits begin and then shall receive in addition to  
16 ~~workmen's~~ WORKER'S compensation benefits a supplement from the  
17 department which together with the ~~workmen's~~ WORKER'S compensa-  
18 tion benefits shall equal but not exceed the weekly net wage of  
19 the employee at the time of the injury. This supplement shall  
20 only apply while the person is on the department's payroll and is  
21 receiving ~~workmen's~~ WORKER'S compensation benefits. ~~and shall~~  
22 ~~include an employee who is currently receiving workmen's compen-~~  
23 ~~sation due to an injury covered by this section.~~ Fringe benefits  
24 normally received by an employee shall be in effect during the  
25 time the employee receives the supplement provided by this sec-  
26 tion from the department.

**SB1222, As Passed House, December 9, 1998**

Senate Bill No. 1222

15

1           (2) SUBSECTION (1) ALSO APPLIES TO A PERSON WHO IS EMPLOYED  
2 BY THE DEPARTMENT OF CORRECTIONS WHO, WHILE PERFORMING HIS OR HER  
3 DUTIES IN A YOUTH CORRECTIONAL FACILITY, IS INJURED AS A RESULT  
4 OF AN ASSAULT BY A PRISONER HOUSED IN THE YOUTH CORRECTIONAL  
5 FACILITY OR IS INJURED DURING A RIOT IN THE YOUTH CORRECTIONAL  
6 FACILITY. HOWEVER, SUBSECTION (1) DOES NOT APPLY TO ANY PERSON  
7 EMPLOYED BY, OR RETAINED UNDER CONTRACT BY, A PRIVATE VENDOR THAT  
8 OPERATES A YOUTH CORRECTIONAL FACILITY.

9           (3) ~~(2)~~ For purposes of this section: ~~—, "penal~~  
10 ~~institution" includes the state prison of southern Michigan in~~  
11 ~~the township of Blackman, the county of Jackson; the state house~~  
12 ~~of correction and branch of state prison at Marquette, in the~~  
13 ~~county of Marquette; the Michigan reformatory at Ionia, in the~~  
14 ~~county of Ionia; the Muskegon correctional facility, the Michigan~~  
15 ~~training unit at Ionia and any other state prison, state reforma-~~  
16 ~~tory, state farm probation recovery camp or other state probation~~  
17 ~~facility for adults hereafter established.—~~

18           (A) "CORRECTIONAL FACILITY" MEANS A FACILITY THAT HOUSES  
19 PRISONERS COMMITTED TO THE JURISDICTION OF THE DEPARTMENT,  
20 INCLUDING A COMMUNITY CORRECTIONS CENTER.

21           (B) "YOUTH CORRECTIONAL FACILITY" MEANS A FACILITY AUTHO-  
22 RIZED UNDER SECTION 20G.

23           Sec. 65. (1) Under rules promulgated by the director of the  
24 department, the assistant director in charge of the bureau of  
25 correctional facilities, except as otherwise provided in this  
26 section, may cause the transfer or re-transfer of a prisoner from  
27 a correctional facility to which committed to any other

**SB1222, As Passed House, December 9, 1998**

Senate Bill No. 1222

16

1 correctional facility, or temporarily to a state institution for  
2 medical or surgical treatment. In effecting a transfer, the  
3 assistant director of the bureau of correctional facilities may  
4 utilize the services of an executive or employee within the  
5 department and of a law enforcement officer of the state.

6 (2) A prisoner who is subject to disciplinary time and is  
7 committed to the jurisdiction of the department shall be confined  
8 in a secure correctional facility for the duration of his or her  
9 minimum sentence, ~~plus disciplinary time,~~ except for periods  
10 when the prisoner is away from the secure correctional facility  
11 while being supervised by an employee of the department OR BY AN  
12 EMPLOYEE OF A PRIVATE VENDOR THAT OPERATES A YOUTH CORRECTIONAL  
13 FACILITY UNDER SECTION 20G for 1 of the following purposes:

14 (a) Visiting a critically ill relative.

15 (b) Attending the funeral of a relative.

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

18 (d) Participating in a work detail.

19 (3) As used in this section, "offender" means a citizen of  
20 the United States or a foreign country who has been convicted of  
21 a crime and been given a sentence in a country other than the  
22 country of which he or she is a citizen. If a treaty is in  
23 effect between the United States and a foreign country, which  
24 provides for the transfer of offenders from the jurisdiction of 1  
25 of the countries to the jurisdiction of the country of which the  
26 offender is a citizen, and if the offender requests the transfer,  
27 the governor of this state or a person designated by the governor

**SB1222, As Passed House, December 9, 1998**

Senate Bill No. 1222

17

1 may give the approval of this state to a transfer of an offender,  
2 if the conditions of the treaty are satisfied.

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

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

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

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

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

25       Sec. 69a. (1) A visitor to a state correctional facility  
26 shall not be subjected to a pat down search unless every person  
27 performing or assisting in performing the pat down search is of

**SB1222, As Passed House, December 9, 1998**

Senate Bill No. 1222

18

1 the same sex as the person being searched. If the necessary  
2 personnel ~~is~~ ARE not readily available, a visitor at his or her  
3 option may sign a waiver provided by the department of  
4 corrections, ~~of~~ WAIVING the ~~provision~~ PROVISIONS of this  
5 subsection.

6 (2) As used in this section: ~~, "pat"~~

7 (A) "PAT down search" means a search of a person in which  
8 the person conducting the search touches the body or clothing, or  
9 both, of the person being searched to detect the presence of con-  
10 cealed objects.

11 (B) "STATE CORRECTIONAL FACILITY" INCLUDES A YOUTH CORREC-  
12 TIONAL FACILITY OPERATED UNDER SECTION 20G BY THE DEPARTMENT OR A  
13 PRIVATE VENDOR.

14 Sec. 70. (1) A correctional facility may monitor telephone  
15 communications over telephones available for use by prisoners in  
16 the correctional facility if all of the following conditions are  
17 met:

18 (a) The director promulgates rules under which the monitor-  
19 ing is to be conducted, and the monitoring is conducted in  
20 accordance with those rules. The rules shall include provisions  
21 for minimizing the intrusiveness of the monitoring and shall pre-  
22 scribe a procedure by which a prisoner may make telephone calls  
23 to his or her attorney, and any federal, state, or local public  
24 official if requested by that public official, that are not  
25 monitored.

26 (b) The monitoring is routinely conducted ~~by employees of~~  
27 ~~the department~~ for the purpose of preserving the security and

**SB1222, As Passed House, December 9, 1998**

Senate Bill No. 1222

19

1 orderly management of the correctional facility, interdicting  
2 drugs and other contraband, and protecting the public, AND IS  
3 PERFORMED BY EMPLOYEES OF THE DEPARTMENT OR, IN THE CASE OF A  
4 YOUTH CORRECTIONAL FACILITY OPERATED BY A PRIVATE VENDOR UNDER  
5 SECTION 20G, IS CONDUCTED BY EMPLOYEES OF THE PRIVATE VENDOR.

6 (c) Notices are prominently posted on or near each telephone  
7 subject to monitoring informing users of the telephone that com-  
8 munications over the telephone may be monitored.

9 (d) In addition to the posting of notices under  
10 subdivision (c), the prisoners in the correctional facility are  
11 given reasonable notice of the rules promulgated under  
12 subdivision (a).

13 (e) Each party to the conversation is notified by voice that  
14 the conversation is being monitored.

15 (2) A correctional facility shall disclose information  
16 obtained pursuant to this section regarding a crime or attempted  
17 crime to any law enforcement agency having jurisdiction over that  
18 crime or attempted crime.

19 (3) Evidence obtained pursuant to this section regarding a  
20 crime or attempted crime may be considered as evidence in a crim-  
21 inal prosecution for that crime or attempted crime.

22 (4) As used in this section:  ~~, "monitor"~~

23 (A) "CORRECTIONAL FACILITY" INCLUDES A YOUTH CORRECTIONAL  
24 FACILITY OPERATED UNDER SECTION 20G BY THE DEPARTMENT OR A PRI-  
25 VATE VENDOR.

26 (B) "MONITOR" means to listen to or record, or both.