

HOUSE BILL No. 5412

December 4, 1997, Introduced by Rep. Goschka and referred to the Committee on Corrections.

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 33, 33b, 33e, 34, 34a, 35, 36, 51, 65, and 65a (MCL 791.233, 791.233b, 791.233e, 791.234, 791.234a, 791.235, 791.236, 791.251, 791.265, and 791.265a), sections 33, 33b, 35,

51, and 65 as amended by 1994 PA 217, section 33e as added by 1992 PA 181, section 34 as amended by 1994 PA 345, section 34a as amended by 1994 PA 427, section 36 as amended by 1996 PA 554, and section 65a as amended by 1997 PA 13; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 33. (1) ~~The~~ A grant of a parole is AVAILABLE ONLY TO
2 PRISONERS SENTENCED FOR CRIMES COMMITTED ON OR BEFORE THE EFFEC-
3 TIVE DATE OF THE 1997 AMENDATORY ACT THAT AMENDED THIS SECTION,
4 AND IS subject to all of the following:

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

10 (b) Except as provided in section 34a, a parole shall not be
11 granted to a prisoner ~~other than a prisoner subject to disci-~~
12 ~~plinary time~~ until the prisoner has served the minimum term
13 imposed by the court less allowances for good time, ~~or~~ special
14 good time, OR DISCIPLINARY CREDITS to which the prisoner may be
15 entitled by statute, except that a prisoner ~~other than a pris-~~
16 ~~oner subject to disciplinary time~~ is eligible for parole before
17 the expiration of his or her minimum term of imprisonment when-
18 ever the sentencing judge, or the judge's successor in office,
19 gives written approval of the parole of the prisoner before the
20 expiration of the minimum term of imprisonment.

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

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

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

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

1 (3) Pursuant to the administrative procedures act of 1969,
2 ~~Act No. 306 of the Public Acts of 1969, as amended, being~~
3 ~~sections 24.201 to 24.328 of the Michigan Compiled Laws 1969~~
4 PA 306, MCL 24.201 TO 24.328, the parole board may promulgate
5 rules not inconsistent with this act with respect to conditions
6 to be imposed upon prisoners paroled under this act.

7 Sec. 33b. A person convicted and sentenced for ~~the commis-~~
8 ~~sion of~~ COMMITTING any of the following crimes ~~other than a~~
9 ~~prisoner subject to disciplinary time~~ is not eligible for parole
10 until the person has served the minimum term imposed by the court
11 less an allowance for disciplinary credits as provided in section
12 33(5) of ~~Act No. 118 of the Public Acts of 1893, being section~~
13 ~~800.33 of the Michigan Compiled Laws 1893 PA 118, MCL 800.33,~~
14 and is not eligible for special parole:

15 (a) Section 13 of the Michigan penal code, ~~Act No. 328 of~~
16 ~~the Public Acts of 1931, as amended, being section 750.13 of the~~
17 ~~Michigan Compiled Laws 1931 PA 328, MCL 750.13.~~

18 (b) Section 14 of ~~Act No. 328 of the Public Acts of 1931,~~
19 ~~as amended, being section 750.14 of the Michigan Compiled Laws-~~
20 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.14.

21 (c) Section 72, 73, or 75 of ~~Act No. 328 of the Public Acts~~
22 ~~of 1931, as amended, being section 750.72, 750.73, or 750.75 of~~
23 ~~the Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328,
24 MCL 750.72, 750.73, AND 750.75.

25 (d) Section 80, 82, 83, 84, 86, 87, 88, 89, or 90 of ~~Act~~
26 ~~No. 328 of the Public Acts of 1931, as amended, being section~~
27 ~~750.80, 750.82, 750.83, 750.84, 750.86, 750.87, 750.88, 750.89,~~

1 ~~or 750.90 of the Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE,
2 1931 PA 328, MCL 750.80, 750.82, 750.83, 750.84, 750.86, 750.87,
3 750.88, 750.89, AND 750.90, or under former section 85 of ~~Act~~
4 ~~No. 328 of the Public Acts of 1931~~ THE MICHIGAN PENAL CODE, 1931
5 PA 328.

6 (e) Section 91 or 92 of ~~Act No. 328 of the Public Acts of~~
7 ~~1931, as amended, being section 750.91 or 750.92 of the Michigan~~
8 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.91
9 AND 750.92.

10 (f) Section 110, 112, or 116 of ~~Act No. 328 of the Public~~
11 ~~Acts of 1931, as amended, being section 750.110, 750.112, or~~
12 ~~750.116 of the Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE,
13 1931 PA 328, MCL 750.110, 750.112, AND 750.116.

14 (g) Section 135, 136b(2), or 136b(3) of ~~Act No. 328 of the~~
15 ~~Public Acts of 1931, as amended, being section 750.135 or~~
16 ~~750.136b of the Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE,
17 1931 PA 328, MCL 750.135 AND 750.136B, or under former section
18 136a of ~~Act No. 328 of the Public Acts of 1931~~ THE MICHIGAN
19 PENAL CODE, 1931 PA 328.

20 (h) Section 158 of ~~Act No. 328 of the Public Acts of 1931,~~
21 ~~as amended, being section 750.158 of the Michigan Compiled Laws~~
22 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.158.

23 (i) Section 160 of ~~Act No. 328 of the Public Acts of 1931,~~
24 ~~as amended, being section 750.160 of the Michigan Compiled Laws~~
25 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.160.

1 (j) Section 171 of ~~Act No. 328 of the Public Acts of 1931,~~
2 ~~as amended, being section 750.171 of the Michigan Compiled Laws~~
3 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.171.

4 (k) Section 196 of ~~Act No. 328 of the Public Acts of 1931,~~
5 ~~as amended, being section 750.196 of the Michigan Compiled Laws~~
6 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.196, or under
7 former section 194 of ~~Act No. 328 of the Public Acts of 1931~~
8 THE MICHIGAN PENAL CODE, 1931 PA 328.

9 (l) Section 204, 205, 206, 207, 208, 209, or 213 of ~~Act~~
10 ~~No. 328 of the Public Acts of 1931, as amended, being section~~
11 ~~750.204, 750.205, 750.206, 750.207, 750.208, 750.209, or 750.213~~
12 ~~of the Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA
13 328, MCL 750.204, 750.205, 750.206, 750.207, 750.208, 750.209,
14 AND 750.213.

15 (m) Section 224, 226, or 227 of ~~Act No. 328 of the Public~~
16 ~~Acts of 1931, as amended, being section 750.224, 750.226, or~~
17 ~~750.227 of the Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE,
18 1931 PA 328, MCL 750.224, 750.226, AND 750.227.

19 (n) Section 316, 317, 319, 321, 322, 323, 327, 328, or 329
20 of ~~Act No. 328 of the Public Acts of 1931, as amended, being~~
21 ~~section 750.316, 750.317, 750.319, 750.321, 750.322, 750.323,~~
22 ~~750.327, 750.328, or 750.329 of the Michigan Compiled Laws~~ THE
23 MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.316, 750.317, 750.319,
24 750.321, 750.322, 750.323, 750.327, 750.328, AND 750.329.

25 (o) Former section 333 of ~~Act No. 328 of the Public Acts of~~
26 ~~1931~~ THE MICHIGAN PENAL CODE, 1931 PA 328.

1 (p) Section 338, 338a, or 338b of ~~Act No. 328 of the Public~~
2 ~~Acts of 1931, as amended, being section 750.338, 750.338a, or~~
3 ~~750.338b of the Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE,
4 1931 PA 328, MCL 750.338, 750.338A, AND 750.338B, or under former
5 section 341 of ~~Act No. 328 of the Public Acts of 1931~~ THE
6 MICHIGAN PENAL CODE, 1931 PA 328.

7 (q) Section 349, 349a, or 350 of ~~Act No. 328 of the Public~~
8 ~~Acts of 1931, as amended, being section 750.349, 750.349a, or~~
9 ~~750.350 of the Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE,
10 1931 PA 328, MCL 750.349, 750.349A, AND 750.350.

11 (r) Section 357 of ~~Act No. 328 of the Public Acts of 1931,~~
12 ~~as amended, being section 750.357 of the Michigan Compiled Laws~~
13 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.357.

14 (s) Section 386 or 392 of ~~Act No. 328 of the Public Acts of~~
15 ~~1931, as amended, being section 750.386 or 750.392 of the~~
16 ~~Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
17 750.386 AND 750.392.

18 (t) Section 397 or 397a of ~~Act No. 328 of the Public Acts~~
19 ~~of 1931, as amended, being section 750.397 or 750.397a of the~~
20 ~~Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
21 750.397 AND 750.397A.

22 (u) Section 436 of ~~Act No. 328 of the Public Acts of 1931,~~
23 ~~as amended, being section 750.436 of the Michigan Compiled Laws~~
24 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.436.

25 (v) Section 511 or 517 of ~~Act No. 328 of the Public Acts of~~
26 ~~1931, as amended, being section 750.511 or 750.517 of the~~

1 ~~Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
2 750.511 AND 750.517.

3 (w) Section 520b, 520c, 520d, or 520g of ~~Act No. 328 of the~~
4 ~~Public Acts of 1931, as amended, being section 750.520b,~~
5 ~~750.520c, 750.520d, or 750.520g of the Michigan Compiled Laws~~
6 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.520B, 750.520C,
7 750.520D, AND 750.520G.

8 (x) Section 529, 529a, 530, or 531 of ~~Act No. 328 of the~~
9 ~~Public Acts of 1931, as amended, being section 750.529, 750.529a,~~
10 ~~750.530, or 750.531 of the Michigan Compiled Laws~~ THE MICHIGAN
11 PENAL CODE, 1931 PA 328, MCL 750.529, 750.529A, 750.530, AND
12 750.531.

13 (y) Section 544 of ~~Act No. 328 of the Public Acts of 1931,~~
14 ~~as amended, being section 750.544 of the Michigan Compiled Laws~~
15 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.544, or under
16 former section 545a of ~~Act No. 328 of the Public Acts of 1931~~
17 THE MICHIGAN PENAL CODE, 1931 PA 328.

18 (z) Former section 2 of ~~Act No. 38 of the Public Acts of~~
19 ~~the Extra Session of 1950~~ 1950 (EX SESS) PA 38.

20 (aa) Former section 6 of ~~Act No. 117 of the Public Acts of~~
21 ~~1952~~ 1952 PA 117.

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

26 (cc) Section 7401(2)(a), 7401(2)(b), 7402(2)(a), or
27 7402(2)(b) of the public health code, ~~Act No. 368 of the Public~~

1 ~~Acts of 1978, being section 333.7401 or 333.7402 of the Michigan~~
2 ~~Compiled Laws~~ 1978 PA 368, MCL 333.7401 AND 333.7402.

3 Sec. 33e. (1) The department shall develop parole guide-
4 lines that are consistent with section 33(1)(a) and that shall
5 govern the exercise of the parole board's discretion pursuant to
6 sections 34 and 35 as to the release of prisoners on parole under
7 this act. The purpose of the parole guidelines shall be to
8 assist the parole board in making release decisions that enhance
9 the public safety.

10 (2) In developing the parole guidelines, the department
11 shall consider factors including, but not limited to, the
12 following:

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

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

16 (c) The prisoner's institutional conduct.

17 (d) The prisoner's prior criminal record. As used in this
18 subdivision, "prior criminal record" means the recorded criminal
19 history of a prisoner, including all misdemeanor and felony con-
20 victions, probation violations, juvenile adjudications for acts
21 that would have been crimes if committed by an adult, parole
22 failures, and delayed sentences.

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

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

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

2 (b) The prisoner's age.

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

6 (5) The department shall promulgate rules pursuant to the
7 administrative procedures act of 1969, ~~Act No. 306 of the Public~~
8 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~
9 ~~Compiled Laws~~ 1969 PA 306, MCL 24.201 TO 24.328, which shall
10 prescribe the parole guidelines. The department shall submit the
11 proposed rules to the joint committee on administrative rules not
12 later than April 1, 1994. Until the rules take effect, the
13 director shall require that the parole guidelines be considered
14 by the parole board in making release decisions. After the rules
15 take effect, the director shall require that the parole board
16 follow the parole guidelines.

17 (6) The parole board may depart from the parole guidelines
18 by denying parole to a prisoner who has a high probability of
19 parole as determined under the parole guidelines or by granting
20 parole to a prisoner who has a low probability of parole as
21 determined under the parole guidelines. A departure under this
22 subsection shall be for substantial and compelling reasons stated
23 in writing. The parole board shall not use a prisoner's gender,
24 race, ethnicity, alienage, national origin, or religion to depart
25 from the recommended parole guidelines.

26 (7) Not less than once every 2 years, the department shall
27 review the correlation between the implementation of the parole

1 guidelines and the recidivism rate of paroled prisoners, and
2 shall submit to the joint committee on administrative rules any
3 proposed revisions to the administrative rules that the depart-
4 ment considers appropriate after conducting the review.

5 (8) THE PAROLE GUIDELINES APPLY ONLY TO PRISONERS SENTENCED
6 FOR CRIMES COMMITTED ON OR BEFORE THE EFFECTIVE DATE OF THE AMEN-
7 DATORY ACT THAT ADDED THIS SUBSECTION.

8 Sec. 34. (1) Except as provided in section 34a, a prisoner
9 sentenced to an indeterminate sentence FOR A CRIME COMMITTED ON
10 OR BEFORE THE EFFECTIVE DATE OF THE 1997 AMENDATORY ACT THAT
11 AMENDED THIS SECTION and confined in a state correctional facil-
12 ity with a minimum in terms of years ~~other than a prisoner~~
13 ~~subject to disciplinary time~~ is subject to the jurisdiction of
14 the parole board when the prisoner has served a period of time
15 equal to the minimum sentence imposed by the court for the crime
16 of which he or she was convicted, less good time and disciplinary
17 credits, if applicable.

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

1 (2) ~~-(3)-~~ If a prisoner ~~other than a prisoner subject to~~
2 ~~disciplinary time~~ is sentenced for consecutive terms FOR A CRIME
3 COMMITTED ON OR BEFORE THE EFFECTIVE DATE OF THE 1997 AMENDATORY
4 ACT THAT AMENDED THIS SECTION, whether received at the same time
5 or at any time during the life of the original sentence, the
6 parole board has jurisdiction over the prisoner for purposes of
7 parole when the prisoner has served the total time of the added
8 minimum terms, less the good time and disciplinary credits
9 allowed by statute. The maximum terms of the sentences shall be
10 added to compute the new maximum term under this subsection, and
11 discharge shall be issued only after the total of the maximum
12 sentences has been served less good time and disciplinary cred-
13 its, unless the prisoner is paroled and discharged upon satisfac-
14 tory completion of the parole.

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

26 (3) ~~-(5)-~~ If a prisoner ~~other than a prisoner subject to~~
27 ~~disciplinary time~~ SENTENCED FOR A CRIME COMMITTED ON OR BEFORE

1 THE EFFECTIVE DATE OF THE 1997 AMENDATORY ACT THAT AMENDED THIS
2 SECTION has 1 or more consecutive terms remaining to serve in
3 addition to the term he or she is serving, the parole board may
4 terminate the sentence the prisoner is presently serving at any
5 time after the minimum term of the sentence has been served.

6 (4) ~~(6)~~ A prisoner under sentence for life or for a term
7 of years FOR A CRIME COMMITTED ON OR BEFORE THE EFFECTIVE DATE OF
8 THE 1997 AMENDATORY ACT THAT AMENDED THIS SECTION, other than a
9 prisoner sentenced for life for murder in the first degree or
10 sentenced for life or for a minimum term of imprisonment for a
11 major controlled substance offense, who has served 10 calendar
12 years of the sentence in the case of a prisoner sentenced for a
13 crime committed before October 1, 1992, or who has served 15 cal-
14 endar years of the sentence in the case of a prisoner sentenced
15 for a crime committed on or after October 1, 1992, is subject to
16 the jurisdiction of the parole board and may be released on
17 parole by the parole board, subject to the following conditions:

18 (a) One member of the parole board shall interview the pris-
19 oner at the conclusion of 10 calendar years of the sentence and
20 every 5 years thereafter until such time as the prisoner is
21 paroled, discharged, or deceased. ~~The interview schedule pre-~~
22 ~~scribed in this subdivision applies to all prisoners to whom this~~
23 ~~subsection is applicable, whether sentenced before, on, or after~~
24 ~~the effective date of the 1992 amendatory act that amended this~~
25 ~~subdivision.~~

26 (b) A parole shall not be granted a prisoner so sentenced
27 until after a public hearing held in the manner prescribed for

1 pardons and commutations in sections 44(2)(f) to (h) and 45.
2 Notice of the public hearing shall be given to the sentencing
3 judge, or the judge's successor in office, and parole shall not
4 be granted if the sentencing judge, or the judge's successor in
5 office, files written objections to the granting of the parole
6 within 30 days of receipt of the notice of hearing. The written
7 objections shall be made part of the prisoner's file.

8 (c) A parole granted under this subsection shall be for a
9 period of not less than 4 years and subject to the usual rules
10 pertaining to paroles granted by the parole board. A parole
11 ordered under this subsection is not valid until the transcript
12 of the record is filed with the attorney general whose certifica-
13 tion of receipt of the transcript shall be returnable to the
14 office of the parole board within 5 days. Except for medical
15 records protected under section 2157 of the revised judicature
16 act of 1961, ~~Act No. 236 of the Public Acts of 1961, being sec-~~
17 ~~tion 600.2157 of the Michigan Compiled Laws~~ 1961 PA 236, MCL
18 600.2157, the file of a prisoner granted a parole under this sub-
19 section is a public record.

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

24 (5) ~~-(7)-~~ Except as provided in section 34a, a prisoner's
25 release on parole is discretionary with the parole board. The
26 action of the parole board in granting or denying a parole is
27 appealable by the prisoner, the prosecutor of the county from

1 which the prisoner was committed, or the victim of the crime for
2 which the prisoner was convicted. The appeal shall be to the
3 circuit court in the county from which the prisoner was commit-
4 ted, by leave of the court.

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

9 Sec. 34a. (1) ~~A~~ REGARDLESS OF HIS OR HER SENTENCING DATE,
10 A prisoner sentenced ~~either before, on, or after the effective~~
11 ~~date of the amendatory act that added this section~~ to an inde-
12 terminate term of imprisonment under the jurisdiction of the
13 department shall be considered by the department for placement in
14 a special alternative incarceration unit established under
15 section 3 of the special alternative incarceration act, ~~Act~~
16 ~~No. 287 of the Public Acts of 1988, being section 798.13 of the~~
17 ~~Michigan Compiled Laws~~ 1988 PA 287, MCL 798.13, if the prisoner
18 meets the eligibility requirements of subsections (2) and (3).
19 For a prisoner committed to the jurisdiction of the department on
20 or after March 19, 1992, the department shall determine before
21 the prisoner leaves the reception center whether the prisoner is
22 eligible for placement in a special alternative incarceration
23 unit, although actual placement may take place at a later date.
24 A determination of eligibility does not guarantee placement in a
25 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 does not exceed either
5 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~~ 1931 PA 328,
9 MCL 750.110, if the violation involved any occupied dwelling
10 house, as that term is 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~~ 1931 PA 328, MCL 750.11, 750.49, 750.80, 750.83,
13 750.89, 750.91, 750.157B, 750.158, 750.207, 750.260, 750.316,
14 750.317, 750.327, 750.328, 750.335A, 750.338, 750.338A, 750.338B,
15 750.349, 750.349A, 750.350, 750.422, 750.436, 750.511, 750.516,
16 750.517, 750.520B, 750.529, 750.529A, 750.531, AND 750.544.

17 (ii) A violation of section 145c, 520c, 520d, or 520g of
18 ~~Act No. 328 of the Public Acts of 1931, being sections 750.145c,~~
19 ~~750.520c, 750.520d, and 750.520g of the Michigan Compiled Laws~~
20 THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.145C, 750.520C,
21 750.520D, AND 750.520G.

22 (iii) A violation of section 72, 73, or 75 of ~~Act No. 328~~
23 ~~of the Public Acts of 1931, being sections 750.72, 750.73, and~~
24 ~~750.75 of the Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE,
25 1931 PA 328, MCL 750.72, 750.73, AND 750.75.

26 (iv) A violation of section 86, 112, 136b, 193, 195, 213,
27 319, 321, 329, or 397 of ~~Act No. 328 of the Public Acts of 1931,~~

1 ~~being sections 750.86, 750.112, 750.136b, 750.193, 750.195,~~
2 ~~750.213, 750.319, 750.321, 750.329, and 750.397 of the Michigan~~
3 ~~Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.86,
4 750.112, 750.136B, 750.193, 750.195, 750.213, 750.319, 750.321,
5 750.329, AND 750.397.

6 (v) A violation of section 2 of ~~Act No. 302 of the Public~~
7 ~~Acts of 1968, being section 752.542 of the Michigan Compiled~~
8 ~~Laws~~ 1968 PA 302, MCL 752.542.

9 (vi) An attempt to commit a crime described in subparagraphs
10 (i) to (v).

11 (vii) A violation occurring on or after January 1, 1992, of
12 section 625(4) or (5) of the Michigan vehicle code, ~~Act No. 300~~
13 ~~of the Public Acts of 1949, being section 257.625 of the Michigan~~
14 ~~Compiled Laws~~ 1949 PA 300, MCL 257.625.

15 (viii) A crime for which the prisoner was punished pursuant
16 to section 10, 11, or 12 of chapter IX of the code of criminal
17 procedure, ~~Act No. 175 of the Public Acts of 1927, being sec-~~
18 ~~tions 769.10, 769.11, and 769.12 of the Michigan Compiled Laws~~
19 1927 PA 175, MCL 769.10, 769.11, AND 769.12.

20 (3) A prisoner who is serving a sentence for a violation of
21 section 7401 or 7403 of the public health code, ~~Act No. 368 of~~
22 ~~the Public Acts of 1978, being sections 333.7401 and 333.7403 of~~
23 ~~the Michigan Compiled Laws~~ 1978 PA 368, MCL 333.7401 AND
24 333.7403, who has previously been convicted for a violation of
25 section 7401 or 7403(2)(a), (b), or (e) of ~~Act No. 368 of the~~
26 ~~Public Acts of 1978~~ THE PUBLIC HEALTH CODE, 1978 PA 368,
27 MCL 333.7401 AND 333.7403, is not eligible for placement in a

1 special alternative incarceration unit until after he or she has
2 served the equivalent of the mandatory minimum sentence pre-
3 scribed by statute for that violation.

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

1 unless the sentencing judge, or the judge's successor, notifies
2 the department, in writing, that he or she does not object to the
3 proposed placement. In making the decision on whether or not to
4 object, the judge, or judge's successor, shall review any impact
5 statement submitted pursuant to section 14 of ~~Act No. 87 of the~~
6 ~~Public Acts of 1985, being section 780.764 of the Michigan~~
7 ~~Compiled Laws~~ THE CRIME VICTIM'S RIGHTS ACT, 1985 PA 87,
8 MCL 780.764, by the victim or victims of the crime of which the
9 prisoner was convicted.

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

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

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

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

13 (8) The parole board may suspend or revoke parole for any
14 prisoner paroled under this section subject to sections 39a and
15 40a. ~~For a prisoner other than a prisoner subject to disci-~~
16 ~~plinary time, if~~ IF parole is revoked before the expiration of
17 the prisoner's minimum sentence, less disciplinary credits, the
18 parole board shall forfeit, pursuant to section 33(13) of ~~Act~~
19 ~~No. 118 of the Public Acts of 1893, being section 800.33 of the~~
20 ~~Michigan Compiled Laws~~ 1893 PA 118, MCL 800.33, all disciplinary
21 credits that were accumulated during special alternative incar-
22 ceration, and the prisoner shall be considered for parole pursu-
23 ant 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.

1 (10) ~~The provisions of this section regarding prisoners~~
2 ~~subject to disciplinary time take effect beginning on the effec-~~
3 ~~tive date of Act No. 217 of the Public Acts of 1994, as pre-~~
4 ~~scribed in enacting section 2 of that amendatory act.~~ THIS SEC-
5 TION DOES NOT APPLY TO A PRISONER SENTENCED FOR A CRIME COMMITTED
6 AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS
7 SENTENCE.

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

1 act, ~~Act No. 87 of the Public Acts of 1985, being sections~~
2 ~~780.751 to 780.834 of the Michigan Compiled Laws~~ 1985 PA 87,
3 MCL 780.751 TO 780.834, or under any other provision of law. The
4 parole board shall not consider any of the following factors in
5 making a parole determination:

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

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

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

22 (3) The parole board may consider but shall not base a
23 determination to deny parole solely on either of the following:

24 (a) A prisoner's marital history.

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

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

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

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

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

12 (a) A statement of all major misconduct charges of which the
13 prisoner was found guilty and the punishment served for the
14 misconduct.

15 (b) The prisoner's work and educational record while
16 confined.

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

19 (d) Whether the prisoner fully cooperated with the state by
20 providing complete financial information as required under sec-
21 tion 3a of the state correctional facility reimbursement act,
22 ~~Act No. 253 of the Public Acts of 1935, being section 800.403a~~
23 ~~of the Michigan Compiled Laws~~ 1935 PA 253, MCL 800.403A.

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

26 (9) Psychological evaluations performed at the request of
27 the parole board to assist it in reaching a decision on the

1 release of a prisoner may be performed by the same person who
2 provided the prisoner with therapeutic treatment, unless a dif-
3 ferent person is requested by the prisoner or parole board.

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

10 (11) The department shall submit a petition to the ~~probate~~
11 court HAVING JURISDICTION under section 434 of the mental health
12 code, ~~Act No. 258 of the Public Acts of 1974, being~~
13 ~~section 330.1434 of the Michigan Compiled Laws~~ 1974 PA 258,
14 MCL 330.1434, for any prisoner being paroled or being released
15 after serving his or her maximum sentence whom the department
16 considers to be a person requiring treatment. The parole board
17 shall require mental health treatment as a special condition of
18 parole for any parolee whom the department has determined to be a
19 person requiring treatment whether or not the petition filed for
20 that prisoner is granted by the probate court. As used in this
21 subsection, "person requiring treatment" means that term as
22 defined in section 401 of ~~Act No. 258 of the Public Acts of~~
23 ~~1974, being section 330.1401 of the Michigan Compiled Laws~~ THE
24 MENTAL HEALTH CODE, 1974 PA 258, MCL 330.1401.

25 (12) When the parole board makes a final determination not
26 to release a prisoner, the prisoner shall be provided with a
27 written explanation of the reason for denial and, if appropriate,

1 specific recommendations for corrective action the prisoner may
2 take to facilitate release.

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

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

9 Sec. 36. (1) All paroles shall be ordered by the parole
10 board and shall be signed by the chairperson. Written notice of
11 the order shall be given to the sheriff or other police officer
12 of the municipality or county in which the prisoner was con-
13 victed, and to the sheriff or other local police officer of the
14 municipality or county to which the paroled prisoner is sent.

15 (2) An order of parole may be amended or rescinded at the
16 discretion of the parole board for cause. If a paroled prisoner
17 who is required to register pursuant to the sex offenders regis-
18 tration act, ~~Act No. 295 of the Public Acts of 1994, being sec-~~
19 ~~tions 28.721 to 28.732 of the Michigan Compiled Laws— 1994~~
20 PA 295, MCL 28.721 TO 28.732, willfully violates that act, the
21 parole board shall rescind the parole. A parole shall not be
22 rescinded unless an interview is conducted by 1 member of the
23 parole board. The purpose of the interview is to consider and
24 act upon information received by the board after the original
25 parole release decision. A rescission interview shall be con-
26 ducted within 45 days after receiving the new information. At
27 least 10 days before the interview, the parolee shall receive a

1 copy or summary of the new evidence that is the basis for the
2 interview. An amendment to a parole order shall be in writing
3 and is not effective until notice of the amendment is given to
4 the parolee.

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

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

18 (5) The order of parole shall contain a condition requiring
19 the parolee to pay a parole supervision fee as prescribed in
20 section 36a.

21 (6) The order of parole shall contain a condition requiring
22 the parolee to pay any assessment the prisoner was ordered to pay
23 pursuant to section 5 of ~~Act No. 196 of the Public Acts of 1989,~~
24 ~~being section 780.905 of the Michigan Compiled Laws~~ 1989 PA 196,
25 MCL 780.905.

26 (7) If the parolee is required to be registered under ~~Act~~
27 ~~No. 295 of the Public Acts of 1994~~ THE SEX OFFENDERS

1 REGISTRATION ACT, 1994 PA 295, MCL 28.721 TO 28.732, the order of
2 parole shall contain a condition requiring the parolee to comply
3 with that act.

4 ~~(8) An order of parole issued for a prisoner subject to~~
5 ~~disciplinary time shall contain a condition requiring the parolee~~
6 ~~to be housed in a community corrections center or a community~~
7 ~~residential home for not less than the first 30 days but not more~~
8 ~~than the first 180 days of his or her term of parole. As used in~~
9 ~~this subsection, "community corrections center" and "community~~
10 ~~residential home" mean those terms as defined in section 65a.~~
11 ~~This subsection applies beginning on the date that sentencing~~
12 ~~guidelines are enacted into law after the sentencing commission~~
13 ~~submits recommended sentencing guidelines to the secretary of the~~
14 ~~senate and the clerk of the house of representatives pursuant to~~
15 ~~section 33 of chapter IX of the code of criminal procedure, Act~~
16 ~~No. 175 of the Public Acts of 1927, being section 769.33 of the~~
17 ~~Michigan Compiled Laws.~~

18 (8) ~~(9)~~ The order of parole shall contain a condition
19 requiring the parolee to pay the following amounts owed by the
20 prisoner, if applicable:

21 (a) The balance of filing fees and costs ordered to be paid
22 under section 2963 of the revised judicature act of 1961, ~~Act~~
23 ~~No. 236 of the Public Acts of 1961, being section 600.2963 of the~~
24 ~~Michigan Compiled Laws~~ 1961 PA 236, MCL 600.2963.

25 (b) The balance of any filing fee ordered to be paid by a
26 federal court under section 1915 of title 28 of the United States

1 Code, 28 U.S.C. 1915 and any unpaid order of costs assessed
2 against the prisoner.

3 (9) ~~(10)~~ In each case in which payment of restitution is
4 ordered as a condition of parole, a parole officer assigned to a
5 case shall review the case not less than twice yearly to ensure
6 that restitution is being paid as ordered. The final review
7 shall be conducted not less than 60 days before the expiration of
8 the parole period. If the parole officer determines that resti-
9 tution is not being paid as ordered, the parole officer shall
10 file a written report of the violation with the parole board on a
11 form prescribed by the parole board. The report shall include a
12 statement of the amount of arrearage and any reasons for the
13 arrearage known by the parole officer. The parole board shall
14 immediately provide a copy of the report to the court, the prose-
15 cuting attorney, and the victim.

16 (10) ~~(11)~~ If a parolee is required to register pursuant to
17 ~~Act No. 295 of the Public Acts of 1994~~ THE SEX OFFENDERS REGIS-
18 TRATION ACT, 1994 PA 295, MCL 28.721 TO 28.732, the parole offi-
19 cer shall register the parolee as provided in that act.

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 hearings division is responsible for each prisoner
25 hearing the department conducts that may result in the loss by a
26 prisoner of a right, including but not limited to any 1 or more
27 of the following matters:

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

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

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

9 (d) Visitor restrictions.

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

11 ~~(3) The hearings division is responsible for each prisoner~~
12 ~~hearing that may result in the accumulation of disciplinary~~
13 ~~time.~~

14 (3) ~~(4)~~ The hearings division is not responsible for a
15 prisoner hearing that is conducted as a result of a minor miscon-
16 duct charge that would not cause a loss of good time or disci-
17 plinary credits, or result in placement in punitive segregation.

18 (4) ~~(5)~~ Each hearings officer of the department is under
19 the direction and supervision of the hearings division. Each
20 hearings officer hired by the department after October 1, 1979,
21 shall be an attorney.

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

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

5 ~~(2) A prisoner who is subject to disciplinary time and is~~
6 ~~committed to the jurisdiction of the department shall be confined~~
7 ~~in a secure correctional facility for the duration of his or her~~
8 ~~minimum sentence plus disciplinary time, except for periods when~~
9 ~~the prisoner is away from the secure correctional facility while~~
10 ~~being supervised by an employee of the department for 1 of the~~
11 ~~following purposes:~~

12 ~~(a) Visiting a critically ill relative.~~

13 ~~(b) Attending the funeral of a relative.~~

14 ~~(c) Obtaining medical services not otherwise available at~~
15 ~~the secure correctional facility.~~

16 ~~(d) Participating in a work detail.~~

17 (2) ~~(3)~~ As used in this section, "offender" means a citi-
18 zen of the United States or a foreign country who has been con-
19 victed of a crime and been given a sentence in a country other
20 than the country of which he or she is a citizen. If a treaty is
21 in effect between the United States and a foreign country, which
22 provides for the transfer of offenders from the jurisdiction of 1
23 of the countries to the jurisdiction of the country of which the
24 offender is a citizen, and if the offender requests the transfer,
25 the governor of this state or a person designated by the governor
26 may give the approval of this state to a transfer of an offender,
27 if the conditions of the treaty are satisfied.

1 (3) ~~(4)~~ Not less than 45 days before approval of a
2 transfer pursuant to subsection ~~(3)~~ (2) from this state to
3 another country, the governor, or the governor's designee, shall
4 notify the sentencing judge and the prosecuting attorney of the
5 county having original jurisdiction, or their successors in
6 office, of the request for transfer. The notification shall
7 indicate any name changes of the offender subsequent to
8 sentencing. Within 20 days after receiving such notification,
9 the judge or prosecutor may send to the governor, or the
10 governor's designee, information about the criminal action
11 against the offender or objections to the transfer. Objections
12 to the transfer shall not preclude approval of the transfer.

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

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

19 ~~(b) Prisoners in the facility are restricted to the area~~
20 ~~inside the fence or wall.~~

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

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

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

3 (a) Visit a specifically designated place or places. An
4 extension of limits may be granted only to a prisoner housed in a
5 state correctional facility to permit a visit to a critically ill
6 relative, attendance at the funeral of a relative, or contacting
7 prospective employers. The maximum amount of time a prisoner is
8 eligible for an extension of the limits of confinement under this
9 subdivision shall not exceed a cumulative total period of 30
10 days.

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

13 (c) Work at paid employment, participate in a training or
14 educational program, or participate in a community residential
15 drug treatment program while continuing as a prisoner housed on a
16 voluntary basis at a community corrections center or in a commu-
17 nity residential home.

18 (2) The director shall promulgate rules to implement this
19 section.

20 (3) The willful failure of a prisoner to remain within the
21 extended limits of his or her confinement or to return within the
22 time prescribed to an institution or facility designated by the
23 director shall be considered an escape from custody as provided
24 in section 193 of the Michigan penal code, 1931 PA 328, MCL
25 750.193.

26 (4) Subject to subsection (6), a prisoner ~~—, other than a~~
27 ~~prisoner subject to disciplinary time,~~ who is convicted of a

1 crime of violence or any assaultive crime is not eligible for the
2 extensions of the limits of confinement provided in subsection
3 (1) until the minimum sentence imposed for the crime has less
4 than 180 days remaining. ~~Subject to subsection (6), a prisoner~~
5 ~~subject to disciplinary time is not eligible for the extensions~~
6 ~~of the limits of confinement provided in subsection (1) until he~~
7 ~~or she has served the minimum sentence imposed for the crime plus~~
8 ~~any disciplinary time.~~ However, if the reason for the extension
9 is to visit a critically ill relative, attend the funeral of a
10 relative, or obtain medical services not otherwise available, the
11 director may allow the extension under escort as provided in sub-
12 section (1).

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

18 (6) A prisoner who is convicted of a crime of violence or
19 any assaultive crime, and whose minimum sentence imposed for the
20 crime is 10 years or more, shall not be placed in a community
21 residential home during any portion of his or her sentence.

22 ~~(7) The provisions of this section regarding prisoners~~
23 ~~subject to disciplinary time take effect beginning on the effec-~~
24 ~~tive date of 1994 PA 217, as prescribed in enacting section 2 of~~
25 ~~that amendatory act.~~

26 (7) ~~(8)~~ As used in this section:

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

4 (b) "Community residential home" means a location where
5 electronic monitoring of prisoner presence is provided by the
6 department 7 days per week, 24 hours per day, except that the
7 department may waive the requirement that electronic monitoring
8 be provided as to any prisoner who is within 3 months of his or
9 her parole date.

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

14 Enacting section 1. Section 33c of 1953 PA 232, MCL
15 791.233c, is repealed.

16 Enacting section 2. This amendatory act does not take
17 effect unless all of the following bills of the 89th Legislature
18 are enacted into law:

19 (a) Senate Bill No. _____ or House Bill No. _____ (request
20 no. 02647'97).

21 (b) Senate Bill No. _____ or House Bill No. _____ (request
22 no. 02647'97 b).