

Act No. 204  
Public Acts of 1998  
Approved by the Governor  
June 30, 1998  
Filed with the Secretary of State  
June 30, 1998  
EFFECTIVE DATE: June 30, 1998

STATE OF MICHIGAN  
89TH LEGISLATURE  
REGULAR SESSION OF 1998

Introduced by Senators Bennett, Gougeon, Bullard, Gast, McManus, North, Shugars and Jaye

# ENROLLED SENATE BILL No. 838

AN ACT 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:*

Sec. 11a. (1) The director of corrections may enter into contracts on behalf of this state as the director considers appropriate to implement the participation of this state in the interstate corrections compact pursuant to article III of the interstate corrections compact. The contracts may authorize confinement of prisoners in, or transfer of prisoners from, correctional facilities under the jurisdiction of the department of corrections. A contract shall not authorize the confinement of a prisoner who is in the custody of the department in an institution of a state other than a state that is a party to the interstate corrections compact. When transferring prisoners to institutions of other states under this section, the director shall endeavor to ensure that the transfers do not disproportionately affect groups of prisoners according to race, religion, color, creed, or national origin.

(2) The director of corrections shall first determine, on the basis of an inspection made by his or her direction, that an institution of another state is a suitable place for confinement of prisoners committed to his or her custody before entering into a contract permitting that confinement, and shall, at least annually, redetermine the suitability of that

confinement. In determining the suitability of an institution of another state, the director shall determine that the institution maintains standards of care and discipline not incompatible with those of this state and that all inmates confined in that institution are treated equitably, regardless of race, religion, color, creed, or 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 as substance abuse programs, sex offender programs, and life skills development.

(e) Routine and emergency health care, dental care, and mental health services.

(6) One year after April 13, 1994 and annually after that date, the department shall report all of the following to the senate and house committees responsible for legislation concerning corrections and to the appropriations subcommittees on corrections:

(a) The number of prisoners transferred to or from correctional facilities in this state pursuant to the interstate corrections compact.

(b) The cost to the state of the transfers described in subdivision (a).

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

Sec. 51. (1) There is created within the department a hearings division. The division is under the direction and supervision of the hearings administrator who is appointed by the director of the department.

(2) Except as provided in subsection (4), the hearings division is responsible for each prisoner hearing the department conducts that may result in the loss by a prisoner of a right, including but not limited to any 1 or more of the following matters:

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

(b) A security classification that may result in the placement of a prisoner in administrative segregation.

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

(d) Visitor restrictions.

(e) High or very high assaultive risk classifications.

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

(4) The hearings division is not responsible for a prisoner hearing that is conducted as a result of a minor misconduct charge that would not cause a loss of good time or disciplinary credits, or result in placement in punitive segregation.

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

Sec. 56. (1) A prisoner sentenced under the laws of this state who is imprisoned in another state pursuant to the interstate corrections compact is entitled to hearings pursuant to subsection (6) of article IV of the interstate corrections compact.

(2) A prisoner is not entitled to a hearing prior to his or her transfer to an institution of another state pursuant to the interstate corrections compact.

(3) This section shall not impair or abrogate the rights of crime victims, including but not limited to those rights provided under the crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate.

*Maya Rudolph*

Clerk of the House of Representatives.

Approved \_\_\_\_\_

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Governor.