

**HOUSE BILL NO. 4784**

(As amended June 7, 2000)

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 20a and 62b (MCL 791.220a and 791.262b), section 20a as amended by 1998 PA 512 and section 62b as amended by 1988 PA 492.

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

Sec. 20a. (1) The department may establish a youth correctional facility which shall house only prisoners committed to the jurisdiction of the department who are 19 years of age or less. IF THE DEPARTMENT ESTABLISHES OR CONTRACTS WITH A PRIVATE VENDOR FOR THE OPERATION OF A YOUTH CORRECTIONAL FACILITY, FOLLOWING INTAKE PROCESSING IN A DEPARTMENT OPERATED FACILITY, THE DEPARTMENT SHALL HOUSE ALL MALE PRISONERS WHO ARE 16 YEARS OF AGE OR LESS AT THE YOUTH CORRECTIONAL FACILITY UNLESS THE DEPARTMENT DETERMINES THAT THE PRISONER SHOULD BE HOUSED AT A DIFFERENT FACILITY FOR REASONS OF SECURITY, SAFETY, OR BECAUSE OF THE PRISONER'S SPECIALIZED PHYSICAL OR MENTAL HEALTH CARE NEEDS. ~~and who were within the jurisdiction of 1 of the following courts:~~

~~(a) The circuit court or the recorder's court of the city of Detroit under section 606 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606, or section 10a(1)(c) of 1919 PA 369, MCL 725.10a.~~

~~(b) The court having general criminal jurisdiction pursuant to a waiver of jurisdiction by the juvenile division of the probate court or the family division of circuit court under section 4 of chapter XIIA of 1939 PA 288, MCL 712A.4.~~

~~(c) The juvenile division of the probate court or the family division of circuit court in a case designated under section 2d of chapter XIIA of 1939 PA 288, MCL 712A.2d.~~

(2) EXCEPT AS PROVIDED IN SUBSECTION (3), A PRISONER WHO IS 16 YEARS OF AGE OR LESS AND HOUSED AT A YOUTH CORRECTIONAL FACILITY SHALL ONLY BE PLACED IN A GENERAL POPULATION HOUSING UNIT WITH PRISONERS WHO ARE 16 YEARS OF AGE OR LESS.

(3) A PRISONER WHO BECOMES 17 YEARS OF AGE WHILE BEING HOUSED AT A YOUTH CORRECTIONAL FACILITY AND WHO HAS A SATISFACTORY PRISON RECORD MAY REMAIN IN A GENERAL POPULATION HOUSING UNIT FOR NO MORE THAN 1 YEAR WITH PRISONERS WHO ARE 16 YEARS OF AGE OR LESS.

(4) EXCEPT AS PROVIDED IN SUBSECTION (3), A PRISONER WHO IS 16 YEARS OF AGE OR LESS AND HOUSED AT A YOUTH CORRECTIONAL FACILITY SHALL NOT BE ALLOWED TO BE IN THE PROXIMITY OF A PRISONER WHO IS 17 YEARS OF AGE OR MORE WITHOUT THE PRESENCE AND DIRECT SUPERVISION OF CUSTODY PERSONNEL IN THE IMMEDIATE VICINITY.

(5) ~~(2)~~ The department may establish and operate the youth correctional facility or may contract on behalf of the state with a private vendor for the construction or operation, or both, of the youth correctional facility. If the department contracts with a private vendor to construct, rehabilitate, develop, renovate, or operate any existing or anticipated facility pursuant to this section, the department shall require a written certification from the private vendor regarding all of the following:

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

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

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

(6) ~~(3)~~ If the department contracts with a private vendor for the operation of the youth correctional facility, the department shall require by contract that the personnel employed by the private vendor in the operation of the facility be certified as correctional officers to the same extent as would be required if those personnel were employed in a correctional facility operated by the department. The department also shall require by contract that the private vendor meet requirements specified by the department regarding security, protection of the public, inspections by the department, programming, liability and insurance, conditions of confinement, educational services required under subsection ~~(8)~~ (11), and any other issues the department considers necessary for the operation of the youth correctional facility. The department shall also require that the contract include provisions to protect the public's interest if the private vendor defaults on the contract. Before

finalizing a contract with a private vendor for the construction or operation of the youth correctional facility, the department shall submit the proposed contract to the standing committees of the

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senate and the house of representatives having jurisdiction of corrections issues, the corrections subcommittees of the standing committees on appropriations of the senate and the house of representatives, and, with regard to proposed construction contracts, the joint committee on capital outlay. A contract between the department and a private vendor for the construction or operation of the youth correctional facility shall be contingent upon appropriation of the required funding. If the department contracts with a private vendor under this section, the selection of that private vendor shall be by open, competitive bid.

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

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

(a) Calculate inmate release and parole eligibility dates.

(b) Award good time or disciplinary credits, or impose disciplinary time.

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

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

(10) ~~-(7)-~~ Once each year, the department shall report on the operation of the facility. Copies of the report shall be submitted to the chairpersons of the house and senate committees responsible for legislation on corrections or judicial issues, and to the clerk of the house of representatives and the secretary of the senate.

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

(a) The department or private vendor shall require that a prisoner whose academic achievement level is not sufficient to allow the prisoner to participate effectively in a program leading to the attainment of a GED certificate participate in classes that will prepare him or her to participate effectively in the GED program, and shall provide those classes in the facility.

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

(12) ~~-(9)-~~ Neither the department nor the private vendor shall seek to have the youth correctional facility authorized as a public school academy under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

(13) ~~-(10)-~~ A private vendor that operates the youth correctional facility under a contract with the department shall provide written notice of its intention to discontinue its operation of the facility. This subsection does not authorize or limit liability for a breach or default of contract. If the reason for the discontinuance is that the private vendor intends not to renew the contract, the notice shall be delivered to the director of the department at least 1 year before the contract expiration date. If the discontinuance is for any other reason, the notice shall be delivered to the director of the department at least 6 months before the date on which the private vendor will discontinue its operation of the facility. This subsection does not authorize or limit liability for a breach or default of contract.

1 Sec. 62b. (1) The rules and standards promulgated under

2 section 62(3) shall not prohibit the housing of 2 inmates in a

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3 county jail cell which is designed and constructed for single  
4 occupancy and which meets ~~both~~ EITHER of the following  
5 conditions:

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6 (a) The ~~basic~~ cell is at least 65 square feet in area ~~—~~  
7 ~~—(b) The cell—~~ AND provides unrestricted access to a day area  
8 which is available for use by the inmates other than those  
9 inmates being disciplined. The day area shall be available at  
10 least 14 hours per day and shall contain an average of at least  
11 20 additional square feet of space per inmate.

12 (B) THE CELL IS AT LEAST 55 SQUARE FEET IN AREA AND BOTH OF  
13 THE 2 INMATES HOUSED IN THE CELL PARTICIPATE IN A DAY PAROLE PRO-  
14 GRAM FOR NOT LESS THAN 32 HOURS PER WEEK.

15 (2) For purposes of housing inmates as provided for under  
16 this section, the sheriff of the county shall develop and imple-  
17 ment a classification system classifying the county jail popula-  
18 tion according to all of the following:

- 19 (a) Behavior characteristics.  
20 (b) Similar physical characteristics.  
21 (c) Age.  
22 (d) Type of crime committed and criminal history.  
23 (e) Gender.

24 (3) The classification system under subsection (2) shall be  
25 submitted to and approved by the department. Any classification

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1 system in effect on December 31, 1987 ~~—~~ shall continue in  
2 effect until changed as provided in this subsection.

3 (4) A person who has no prior criminal convictions may only  
4 be housed with another inmate who does not have a prior felony  
5 conviction.

6 (5) Cells in which 2 inmates are housed shall have doors  
7 which allow visual supervision, and inmates shall be under visual  
8 supervision at least every hour.

9 (6) An inmate who is subject to section 33b(a) to (cc) ~~of~~  
10 ~~Act No. 232 of the Public Acts of 1953, being section 791.233b of~~  
11 ~~the Michigan Compiled Laws,~~ shall not be housed in a cell with  
12 another inmate as provided for under this section, unless the  
13 sentencing judge authorizes the inmate for ~~such~~ THAT housing.

14 (7) If the state incurs any expense or is liable for damages  
15 on any judgment for an action brought as the result of a county  
16 housing 2 inmates in a cell as provided ~~for under~~ IN this sec-  
17 tion, the county in which the action arose shall fully indemnify  
18 the state for the expense or damages.

19 (8) No more than 75% of the total inmate population may be  
20 housed 2 to a cell and pretrial inmates must be housed in sepa-  
21 rate cell blocks or housing units from sentenced inmates. In any  
22 jail facility with 5 or more floors, pretrial inmates shall be  
23 housed on separate floors from sentenced inmates.