

SUBSTITUTE FOR

HOUSE BILL NO. 6510

(As passed the Senate, December 12, 2002)

A bill to amend 1953 PA 232, entitled  
"Corrections code of 1953,"  
by amending sections 20e and 34 (MCL 791.220e and 791.234),  
section 20e as amended by 1995 PA 20 and section 34 as amended by  
1999 PA 191.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 20e. ~~-(1) Notwithstanding any other provision of this~~  
2 ~~act, after June 14, 1985, a correctional facility, including a~~  
3 ~~prison or other penal institution, correctional farm, reformato-~~  
4 ~~ry, or probation recovery camp, owned, operated, leased, super-~~  
5 ~~vised, or contracted for by the state, shall not be established,~~  
6 ~~operated, or maintained in any local unit of government in which~~  
7 ~~the following correctional facilities are located:~~  
8       ~~(a) Scott correctional facility.~~

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1 ~~(b) Western Wayne correctional facility.~~

2 ~~(2) Subsection (1) does not apply to the following~~  
3 ~~correctional facilities that are in accordance with the~~  
4 ~~following:~~

5 ~~MAXIMUM SECURITY~~  
6 ~~PRISONERS LEVEL~~

7 ~~Scott correctional facility.. 860 Multi-security~~  
8 ~~level prison~~

9 ~~Western Wayne correctional~~  
10 ~~facility..... 775 Medium security~~  
11 ~~prison~~

12 ~~(3) Scott correctional facility shall be used for housing~~  
13 ~~female prisoners only.~~

14 ~~(4) As used in this section, "local unit of government"~~  
15 ~~means a city, village, or township.~~

16 ~~(5) Except with regard to the limitations on state prison~~  
17 ~~facilities and total state prisoners provided for in this sec-~~  
18 ~~tion, this section shall not be construed as limiting the use of~~  
19 ~~the approximately 900 acres of real property owned by the city of~~  
20 ~~Detroit which adjoins the former Detroit house of corrections.~~

21 (1) EXCEPT AS PROVIDED IN SUBSECTION (2), NOT MORE THAN  
22 880 PRISONERS SHALL BE HOUSED AT THE SCOTT CORRECTIONAL FACILITY  
23 AND NOT MORE THAN 925 PRISONERS SHALL BE HOUSED AT THE WESTERN  
24 WAYNE CORRECTIONAL FACILITY.

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(2) IF A NEW HOUSING UNIT IS CONSTRUCTED WITHIN THE SECURITY PERIMETER OF EITHER FACILITY LISTED IN SUBSECTION (1), THE CAPACITY LIMITS LISTED IN SUBSECTION (1) FOR THAT FACILITY ARE INCREASED BY THE DESIGNATED CAPACITY OF THE NEW HOUSING UNIT.

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

(2) Except as provided in section 34a, a prisoner subject to disciplinary time sentenced to an indeterminate sentence and confined in a state correctional facility with a minimum in terms of years is subject to the jurisdiction of the parole board when the prisoner has served a period of time equal to the minimum sentence imposed by the court for the crime of which he or she was convicted.

(3) If a prisoner other than a prisoner subject to disciplinary time is sentenced for consecutive terms, whether received at the same time or at any time during the life of the original sentence, the parole board has jurisdiction over the prisoner for purposes of parole when the prisoner has served the total time of the added minimum terms, less the good time and disciplinary credits allowed by statute. The maximum terms of the sentences shall be added to compute the new maximum term under this

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1 subsection, and discharge shall be issued only after the total of  
2 the maximum sentences has been served less good time and disci-  
3 plinary credits, unless the prisoner is paroled and discharged  
4 upon satisfactory completion of the parole.

5 (4) If a prisoner subject to disciplinary time is sentenced  
6 for consecutive terms, whether received at the same time or at  
7 any time during the life of the original sentence, the parole  
8 board has jurisdiction over the prisoner for purposes of parole  
9 when the prisoner has served the total time of the added minimum  
10 terms. The maximum terms of the sentences shall be added to com-  
11 pute the new maximum term under this subsection, and discharge  
12 shall be issued only after the total of the maximum sentences has  
13 been served, unless the prisoner is paroled and discharged upon  
14 satisfactory completion of the parole.

15 (5) If a prisoner other than a prisoner subject to disci-  
16 plinary time has 1 or more consecutive terms remaining to serve  
17 in addition to the term he or she is serving, the parole board  
18 may terminate the sentence the prisoner is presently serving at  
19 any time after the minimum term of the sentence has been served.

20 (6) A prisoner under sentence for life, other than a pris-  
21 oner sentenced for life for murder in the first degree — or  
22 sentenced for life for a violation of chapter XXXIII of the  
23 Michigan penal code, 1931 PA 328, MCL 750.200 to 750.212a, who  
24 has served 10 calendar years of the sentence in the case of a  
25 prisoner sentenced for ~~any other~~ A crime committed before  
26 October 1, 1992, or, except as provided in subsection (10), who  
27 has served 20 calendar years of the sentence in the case of a

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1 prisoner sentenced to imprisonment for life for violating or  
2 conspiring to violate section 7401(2)(a)(i) of the public health  
3 code, 1978 PA 368, MCL 333.7401, who has another conviction for a  
4 serious crime, or, except as provided in subsection (10), who has  
5 served 17-1/2 calendar years of the sentence in the case of a  
6 prisoner sentenced to imprisonment for life for violating or con-  
7 spiring to violate section 7401(2)(a)(i) of the public health  
8 code, 1978 PA 368, MCL 333.7401, who does not have another con-  
9 viction for a serious crime, or who has served 15 calendar years  
10 of the sentence in the case of a prisoner sentenced for ~~any~~  
11 ~~other~~ A crime committed on or after October 1, 1992, is subject  
12 to the jurisdiction of the parole board and may be released on  
13 parole by the parole board, subject to the following conditions:

14 (a) At the conclusion of 10 calendar years of the prisoner's  
15 sentence and thereafter as determined by the parole board until  
16 the prisoner is paroled, discharged, or deceased, and in accord-  
17 ance with the procedures described in subsection (7), 1 member of  
18 the parole board shall interview the prisoner. The interview  
19 schedule prescribed in this subdivision applies to all prisoners  
20 to whom this subsection is applicable, regardless of the date on  
21 which they were sentenced.

22 (b) In addition to the interview schedule prescribed in sub-  
23 division (a), the parole board shall review the prisoner's file  
24 at the conclusion of 15 calendar years of the prisoner's sentence  
25 and every 5 years thereafter until the prisoner is paroled, dis-  
26 charged, or deceased. A prisoner whose file is to be reviewed  
27 under this subdivision shall be notified of the upcoming file

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1 review at least 30 days before the file review takes place and  
2 shall be allowed to submit written statements or documentary evi-  
3 dence for the parole board's consideration in conducting the file  
4 review.

5 (c) A decision to grant or deny parole to a prisoner so sen-  
6 tenced shall not be made until after a public hearing held in the  
7 manner prescribed for pardons and commutations in sections 44 and  
8 45. Notice of the public hearing shall be given to the sentenc-  
9 ing judge, or the judge's successor in office, and parole shall  
10 not be granted if the sentencing judge, or the judge's successor  
11 in office, files written objections to the granting of the parole  
12 within 30 days of receipt of the notice of hearing. The written  
13 objections shall be made part of the prisoner's file.

14 (d) A parole granted under this subsection shall be for a  
15 period of not less than 4 years and subject to the usual rules  
16 pertaining to paroles granted by the parole board. A parole  
17 ordered under this subsection is not valid until the transcript  
18 of the record is filed with the attorney general whose certifica-  
19 tion of receipt of the transcript shall be returnable to the  
20 office of the parole board within 5 days. Except for medical  
21 records protected under section 2157 of the revised judicature  
22 act of 1961, 1961 PA 236, MCL 600.2157, the file of a prisoner  
23 granted a parole under this subsection is a public record.

24 (e) A parole shall not be granted under this subsection in  
25 the case of a prisoner who is otherwise prohibited by law from  
26 parole consideration. In such cases the interview procedures in  
27 section 44 shall be followed.

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1       (7) An interview conducted under subsection (6)(a) is  
2 subject to both of the following requirements:

3       (a) The prisoner shall be given written notice, not less  
4 than 30 days before the interview date, stating that the inter-  
5 view will be conducted.

6       (b) The prisoner may be represented at the interview by an  
7 individual of his or her choice. The representative shall not be  
8 another prisoner. A prisoner is not entitled to appointed coun-  
9 sel at public expense. The prisoner or representative may  
10 present relevant evidence in favor of holding a public hearing as  
11 described in subsection (6)(b).

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

17       (a) Whether the violation was part of a continuing series of  
18 violations of section 7401 or 7403 of the public health code,  
19 1978 PA 368, MCL 333.7401 and 333.7403, by that individual.

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

22       (c) Any of the following:

23       (i) Whether the individual was a principal administrator,  
24 organizer, or leader of an entity that the individual knew or had  
25 reason to know was organized, in whole or in part, to commit vio-  
26 lations of section 7401 or 7403 of the public health code, 1978  
27 PA 368, MCL 333.7401 and 333.7403, and whether the violation for

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1 which the individual was convicted was committed to further the  
2 interests of that entity.

3 (ii) Whether the individual was a principal administrator,  
4 organizer, or leader of an entity that the individual knew or had  
5 reason to know committed violations of section 7401 or 7403 of  
6 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403,  
7 and whether the violation for which the individual was convicted  
8 was committed to further the interests of that entity.

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

11 (iv) Whether the violation involved the delivery of a con-  
12 trolled substance to an individual less than 17 years of age or  
13 possession with intent to deliver a controlled substance to an  
14 individual less than 17 years of age.

15 (9) Except as provided in section 34a, a prisoner's release  
16 on parole is discretionary with the parole board. The action of  
17 the parole board in granting a parole is appealable by the prose-  
18 cutor of the county from which the prisoner was committed or the  
19 victim of the crime for which the prisoner was convicted. The  
20 appeal shall be to the circuit court in the county from which the  
21 prisoner was committed, by leave of the court.

22 (10) If the sentencing judge, or his or her successor in  
23 office, determines on the record that a prisoner described in  
24 subsection (6) sentenced to imprisonment for life for violating  
25 or conspiring to violate section 7401(2)(a)(i) of the public  
26 health code, 1978 PA 368, MCL 333.7401, has cooperated with law  
27 enforcement, the prisoner is subject to the jurisdiction of the



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1 parole board and may be released on parole as provided in  
2 subsection (6), 2-1/2 years earlier than the time otherwise indi-  
3 cated in subsection (6). The prisoner is considered to have  
4 cooperated with law enforcement if the court determines on the  
5 record that the prisoner had no relevant or useful information to  
6 provide. The court shall not make a determination that the pris-  
7 oner failed or refused to cooperate with law enforcement on  
8 grounds that the defendant exercised his or her constitutional  
9 right to trial by jury. If the court determines at sentencing  
10 that the defendant cooperated with law enforcement, the court  
11 shall include its determination in the judgment of sentence.

12 (11) AN INDIVIDUAL CONVICTED OF VIOLATING OR CONSPIRING TO  
13 VIOLATE SECTION 7401(2)(A)(ii) OR 7403(2)(A)(ii) OF THE PUBLIC  
14 HEALTH CODE, 1978 PA 368, MCL 333.7401 AND 333.7403, BEFORE THE  
15 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION  
16 IS ELIGIBLE FOR PAROLE AFTER SERVING THE MINIMUM OF EACH SENTENCE  
17 IMPOSED FOR THAT VIOLATION OR 10 YEARS OF EACH SENTENCE IMPOSED  
18 FOR THAT VIOLATION, WHICHEVER IS LESS.

19 (12) AN INDIVIDUAL CONVICTED OF VIOLATING OR CONSPIRING TO  
20 VIOLATE SECTION 7401(2)(A)(iii) OR 7403(2)(A)(iii) OF THE PUBLIC  
21 HEALTH CODE, 1978 PA 368, MCL 333.7401 AND 333.7403, BEFORE THE  
22 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION  
23 IS ELIGIBLE FOR PAROLE AFTER SERVING THE MINIMUM OF EACH SENTENCE  
24 IMPOSED FOR THAT VIOLATION OR 5 YEARS OF EACH SENTENCE IMPOSED  
25 FOR THAT VIOLATION, WHICHEVER IS LESS.

26 (13) AN INDIVIDUAL CONVICTED OF VIOLATING OR CONSPIRING TO  
27 VIOLATE SECTION 7401(2)(A)(iv) OR 7403(2)(A)(iv) OF THE PUBLIC

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1 HEALTH CODE, 1978 PA 368, MCL 333.7401 AND 333.7403, BEFORE THE  
2 EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION  
3 WHO IS SENTENCED TO A TERM OF IMPRISONMENT THAT IS CONSECUTIVE TO  
4 A TERM OF IMPRISONMENT IMPOSED FOR ANY OTHER VIOLATION OF SECTION  
5 7401(2)(A)(i) TO (iv) OR SECTION 7403(2)(A)(i) TO (iv) IS ELIGI-  
6 BLE FOR PAROLE AFTER SERVING 1/2 OF THE MINIMUM SENTENCE IMPOSED  
7 FOR EACH VIOLATION OF SECTION 7401(2)(A)(iv) OR 7403(2)(A)(iv).  
8 THIS SUBSECTION DOES NOT APPLY IF THE SENTENCE WAS IMPOSED FOR A  
9 CONVICTION FOR A NEW OFFENSE COMMITTED WHILE THE INDIVIDUAL IS ON  
10 PROBATION OR PAROLE.

11 (14) THE PAROLE BOARD SHALL PROVIDE NOTICE TO THE PROSECUT-  
12 ING ATTORNEY OF THE COUNTY IN WHICH THE INDIVIDUAL WAS CONVICTED  
13 BEFORE GRANTING PAROLE TO THE INDIVIDUAL UNDER SUBSECTION (11),  
14 (12), OR (13).

15 (15) ~~-(11)-~~ As used in this section:

16 (a) "Serious crime" means violating or conspiring to violate  
17 article 7 of the public health code, 1978 PA 368, MCL 333.7101 to  
18 333.7545, that is punishable by imprisonment for more than 4  
19 years, or an offense against a person in violation of section 83,  
20 84, 86, 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b,  
21 520c, 520d, 520g, 529, 529a, or 530 of the Michigan penal code,  
22 1931 PA 328, MCL 750.83, 750.84, 750.86, 750.87, 750.88, 750.89,  
23 750.316, 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397,  
24 750.520b, 750.520c, 750.520d, 750.520g, 750.529, 750.529a, and  
25 750.530.

26 (b) "State correctional facility" means a facility that  
27 houses prisoners committed to the jurisdiction of the department,

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1 and includes a youth correctional facility operated under section  
2 20g by the department or a private vendor.

3 Enacting section 1. This amendatory act takes effect  
4 March 1, 2003.

5 Enacting section 2. This amendatory act does not take  
6 effect unless all of the following bills of the 91st Legislature  
7 are enacted into law:

8 (a) House Bill No. 5394.

9 (b) House Bill No. 5395.