

# HOUSE BILL No. 6193

September 9, 2004, Introduced by Reps. Kolb and Lipsey and referred to the Committee on Criminal Justice.

A bill to amend 1953 PA 232, entitled  
"Corrections code of 1953,"  
by amending section 35 (MCL 791.235), as amended by 1998 PA 315.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 35. (1) ~~The~~ **Except as otherwise provided in**  
2 **subsection (12), the** release of a prisoner on parole shall be  
3 granted solely upon the initiative of the parole board. The  
4 parole board may grant a parole without interviewing the  
5 prisoner. However, beginning ~~on the date on which the~~  
6 ~~administrative rules prescribing parole guidelines pursuant to~~  
7 ~~section 33e(5) take effect~~ **January 26, 1996**, the parole board  
8 may grant a parole without interviewing the prisoner only if,  
9 after evaluating the prisoner according to the parole guidelines,  
10 the parole board determines that the prisoner has a high  
11 probability of being paroled and the parole board therefore

1 intends to parole the prisoner. Except as provided in  
2 subsection (2), a prisoner shall not be denied parole without an  
3 interview before 1 member of the parole board. The interview  
4 shall be conducted at least 1 month before the expiration of the  
5 prisoner's minimum sentence less applicable good time and  
6 disciplinary credits for a prisoner eligible for good time and  
7 disciplinary credits, or at least 1 month before the expiration  
8 of the prisoner's minimum sentence for a prisoner subject to  
9 disciplinary time. The parole board shall consider any statement  
10 made to the parole board by a crime victim under the crime  
11 victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, or under  
12 any other provision of law. The parole board shall not consider  
13 any of the following factors in making a parole determination:

14 (a) A juvenile record that a court has ordered the department  
15 to expunge.

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

22 (2) Beginning ~~on the date on which the administrative rules~~  
23 ~~prescribing the parole guidelines take effect pursuant to~~  
24 ~~section 33e(5)~~ **January 26, 1996**, if, after evaluating a prisoner  
25 according to the parole guidelines, the parole board determines  
26 that the prisoner has a low probability of being paroled and the  
27 parole board therefore does not intend to parole the prisoner,

1 the parole board shall not be required to interview the prisoner  
2 before denying parole to the prisoner.

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

5 (a) A prisoner's marital history.

6 (b) Prior arrests not resulting in conviction or adjudication  
7 of delinquency.

8 (4) If an interview is to be conducted, the prisoner shall be  
9 sent a notice of intent to conduct an interview at least 1 month  
10 before the date of the interview. The notice shall state the  
11 specific issues and concerns that shall be discussed at the  
12 interview and that may be a basis for a denial of parole. A  
13 denial of parole shall not be based on reasons other than those  
14 stated in the notice of intent to conduct an interview except for  
15 good cause stated to the prisoner at or before the interview and  
16 in the written explanation required by subsection ~~-(12)-~~ (13).  
17 This subsection does not apply until April 1, 1983.

18 (5) Except for good cause, the parole board member conducting  
19 the interview shall not have cast a vote for or against the  
20 prisoner's release before conducting the current interview.  
21 Before the interview, the parole board member who is to conduct  
22 the interview shall review pertinent information relative to the  
23 notice of intent to conduct an interview.

24 (6) A prisoner may waive the right to an interview by 1  
25 member of the parole board. The waiver of the right to be  
26 interviewed shall be given not more than 30 days after the notice  
27 of intent to conduct an interview is issued and shall be made in

1 writing. During the interview held pursuant to a notice of  
2 intent to conduct an interview, the prisoner may be represented  
3 by an individual of his or her choice. The representative shall  
4 not be another prisoner or an attorney. A prisoner is not  
5 entitled to appointed counsel at public expense. The prisoner or  
6 representative may present relevant evidence in support of  
7 release. This subsection does not apply until April 1, 1983.

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

18 (a) A statement of all major misconduct charges of which the  
19 prisoner was found guilty and the punishment served for the  
20 misconduct.

21 (b) The prisoner's work and educational record while  
22 confined.

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

25 (d) Whether the prisoner fully cooperated with the state by  
26 providing complete financial information as required under  
27 section 3a of the state correctional facility reimbursement act,

1 1935 PA 253, MCL 800.403a.

2 (e) For a prisoner subject to disciplinary time, a statement  
3 of all disciplinary time submitted for the parole board's  
4 consideration pursuant to section 34 of 1893 PA 118, MCL 800.34.

5 (8) The preparer of the report shall not include a  
6 recommendation as to release on parole.

7 (9) Psychological evaluations performed at the request of the  
8 parole board to assist it in reaching a decision on the release  
9 of a prisoner may be performed by the same person who provided  
10 the prisoner with therapeutic treatment, unless a different  
11 person is requested by the prisoner or parole board.

12 (10) The parole board may grant a medical parole for a  
13 prisoner determined to be physically or mentally incapacitated.  
14 A decision to grant a medical parole shall be initiated upon the  
15 recommendation of the bureau of health care services and shall be  
16 reached only after a review of the medical, institutional, and  
17 criminal records of the prisoner.

18 (11) The department shall submit a petition to the  
19 appropriate court under section 434 of the mental health code,  
20 1974 PA 258, MCL 330.1434, for any prisoner being paroled or  
21 being released after serving his or her maximum sentence whom the  
22 department considers to be a person requiring treatment. The  
23 parole board shall require mental health treatment as a special  
24 condition of parole for any parolee whom the department has  
25 determined to be a person requiring treatment whether or not the  
26 petition filed for that prisoner is granted by the court. As  
27 used in this subsection, "person requiring treatment" means that

1 term as defined in section 401 of the mental health code, 1974  
2 PA 258, MCL 330.1401.

3       (12) Notwithstanding subsections (1) to (11), the parole  
4 board shall release on parole any prisoner who has served his or  
5 her minimum sentence less any applicable good time or  
6 disciplinary credits or, in the case of a prisoner subject to  
7 disciplinary time, has served his or her minimum sentence, if the  
8 prisoner has not been found guilty of any major misconduct  
9 charges during his or her term of incarceration and his or her  
10 release on parole would not threaten the public safety.

11       (13) ~~—(12)—~~ When the parole board makes a final determination  
12 not to release a prisoner, the prisoner shall be provided with a  
13 written explanation of the reason for denial and, if appropriate,  
14 specific recommendations for corrective action the prisoner may  
15 take to facilitate release.

16       (14) ~~—(13)—~~ This section does not apply to the placement on  
17 parole of a person in conjunction with special alternative  
18 incarceration under section 34a(7).