

HOUSE BILL No. 6367

August 11, 2010, Introduced by Rep. Smith and referred to the Committee on Judiciary.

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending sections 65 and 65a (MCL 791.265 and 791.265a), section
65 as amended by 1998 PA 512 and section 65a as amended by 1998 PA
315.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 65. (1) Under rules promulgated by the director of the
2 department, the assistant director in charge of the bureau of
3 correctional facilities, except as otherwise provided in this
4 section, may cause the transfer or ~~re-transfer~~ **RETRANSFER** of a
5 prisoner from a correctional facility to which committed to any
6 other correctional facility, or temporarily to a state institution

1 for 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-EXCEPT AS PROVIDED IN SECTION 65A, A~~ prisoner who is
6 subject to disciplinary time and is committed to the jurisdiction
7 of the department shall be confined in a secure correctional
8 facility for the duration of his or her minimum sentence, except
9 for periods when the prisoner is away from the secure correctional
10 facility while being supervised by an employee of the department ~~or~~
11 ~~by an employee of a private vendor that operates a youth~~
12 ~~correctional facility under section 20g~~ for 1 of the following
13 purposes:

14 (a) Visiting a critically ill relative.

15 (b) Attending the funeral of a relative.

16 (c) Obtaining medical services not otherwise available at the
17 secure correctional facility.

18 (d) Participating in a work detail.

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

1 approval of this state to a transfer of an offender, if the
2 conditions of the treaty are satisfied.

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

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

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

21 (b) Prisoners in the facility are restricted to the area
22 inside the fence or wall.

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

25 Sec. 65a. (1) Under prescribed conditions, the director may
26 extend the limits of confinement of a prisoner when there is
27 reasonable assurance, after consideration of all facts and

1 circumstances, that the prisoner will not become a menace to
2 society or to the public safety, by authorizing the prisoner to do
3 any of the following:

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

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

13 (c) Work at paid **OR TRANSITIONAL** employment ~~—OR~~ participate
14 in a training, ~~or~~ educational, **COGNITIVE, OR TREATMENT** program, or
15 ~~participate in a community residential drug treatment—OTHER~~ program
16 **CONSISTENT WITH THE PRISONER'S CASE MANAGEMENT PLAN**, while
17 continuing as a prisoner housed on a voluntary basis at a community
18 corrections center or in a community residential home.

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

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

26 (4) Subject to subsection ~~(8)~~, ~~(7)~~, a prisoner ~~—other than a~~
27 ~~prisoner subject to disciplinary time~~, who is convicted of a crime

1 of violence or any assaultive crime is not eligible for the
2 extensions of the limits of confinement provided in subsection (1)
3 until the minimum sentence imposed for the crime has less-**FEWER**
4 than 180 days remaining.

5 ~~—— (5) Subject to subsection (8), a prisoner subject to~~
6 ~~disciplinary time is not eligible for the extensions of the limits~~
7 ~~of confinement provided in subsection (1) until he or she has~~
8 ~~served the minimum sentence imposed for the crime.~~

9 (5) ~~(6)~~ However, notwithstanding ~~subsections (4) or (5),~~
10 **SUBSECTION (4)**, if the reason for the extension is to visit a
11 critically ill relative, attend the funeral of a relative, or
12 obtain medical services not otherwise available, the director may
13 allow the extension under escort as provided in subsection (1).

14 (6) ~~(7)~~ A prisoner serving a sentence for murder in the first
15 degree is not eligible for the extensions of confinement under this
16 section until a parole release date is established by the parole
17 board and in no case before serving 15 calendar years with a good
18 institutional adjustment.

19 (7) ~~(8)~~ A prisoner who is convicted of a crime of violence or
20 any assaultive crime, and whose minimum sentence imposed for the
21 crime is 10 years or more, shall not be placed in a community
22 residential home during any portion of his or her sentence.

23 (8) ~~(9)~~ As used in this section:

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

27 (b) "Community residential home" means a location where

1 electronic monitoring of prisoner presence is provided by the
2 department 7 days per week, 24 hours per day, except that the
3 department may waive the requirement that electronic monitoring be
4 provided as to any prisoner who is within 3 months of his or her
5 parole date.

6 (c) "State correctional facility" means a facility owned or
7 leased by the department. State correctional facility does not
8 include a community corrections center or community residential
9 home.