

HOUSE BILL No. 6450

September 16, 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 33, 33e, 34, and 35 (MCL 791.233, 791.233e,
791.234, and 791.235), section 33 as amended by 1998 PA 320,
section 33e as added by 1992 PA 181, section 34 as amended by 2006
PA 167, and section 35 as amended by 1998 PA 315, and by adding
section 32a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 32A. AS USED IN SECTIONS 33, 33E, AND 35, "VALIDATED RISK
2 ASSESSMENT INSTRUMENT" MEANS AN OBJECTIVE AND COMPREHENSIVE
3 ANALYSIS OF A PRISONER'S CRIMINAL HISTORY AND BACKGROUND, AND HIS
4 OR HER BEHAVIOR WHILE IN THE CORRECTIONAL FACILITY, WHICH IS USED
5 TO VALIDLY PREDICT THE RISK THE PRISONER WOULD PRESENT TO THE
6 PUBLIC SAFETY IF AND WHEN HE OR SHE IS RELEASED.

7 Sec. 33. (1) The grant of a parole is subject to all of the

1 following:

2 (a) A prisoner shall not be given liberty on parole until the
3 board has reasonable assurance, after consideration of all of the
4 facts and circumstances, including the ~~prisoner's mental and social~~
5 ~~attitude~~ **REPORT OF A VALIDATED RISK ASSESSMENT INSTRUMENT**, that the
6 prisoner will not become a menace to society or to the public
7 safety.

8 (b) Except as provided in section 34a, a parole shall not be
9 granted to a prisoner other than a prisoner subject to disciplinary
10 time until the prisoner has served the minimum term imposed by the
11 court less allowances for good time or special good time to which
12 the prisoner may be entitled by statute, except that a prisoner
13 other than a prisoner subject to disciplinary time is eligible for
14 parole before the expiration of his or her minimum term of
15 imprisonment whenever the sentencing judge, or the judge's
16 successor in office, gives written approval of the parole of the
17 prisoner before the expiration of the minimum term of imprisonment.

18 (c) Except as provided in section 34a, and notwithstanding the
19 provisions of subdivision (b), a parole shall not be granted to a
20 prisoner other than a prisoner subject to disciplinary time
21 sentenced for the commission of a crime described in section 33b(a)
22 to (cc) until the prisoner has served the minimum term imposed by
23 the court less an allowance for disciplinary credits as provided in
24 section 33(5) of 1893 PA 118, MCL 800.33. A prisoner described in
25 this subdivision is not eligible for special parole.

26 (d) Except as provided in section 34a, a parole shall not be
27 granted to a prisoner subject to disciplinary time until the

1 prisoner has served the minimum term imposed by the court.

2 (e) ~~A prisoner shall not be released on parole until the~~
3 ~~parole board has satisfactory evidence that arrangements have been~~
4 ~~made~~ **THE DEPARTMENT SHALL IMPLEMENT AND ADMINISTER EVIDENCE-BASED**
5 **PROGRAMMING IN RESPONSE TO VALIDATED ASSESSMENT INSTRUMENTS TO**
6 **ENSURE THAT PRISONERS ARE PREPARED** for such honorable and useful
7 employment as the prisoner is capable of performing, for the
8 prisoner's education, or for the prisoner's care if the prisoner is
9 mentally or physically ill or incapacitated. **THE PAROLE BOARD SHALL**
10 **IMPOSE CONDITIONS OF PAROLE AS REQUIRED TO ENSURE THAT EACH**
11 **PRISONER PARTICIPATES IN EVIDENCE-BASED PROGRAMMING IDENTIFIED BY**
12 **THE DEPARTMENT AND DESIGNED TO ADDRESS THE PRISONER'S EDUCATIONAL,**
13 **VOCATIONAL, AND SOCIAL NEEDS, INCLUDING OBTAINING A HIGH SCHOOL**
14 **DIPLOMA OR GENERAL EDUCATIONAL DEVELOPMENT (GED) CERTIFICATE.**

15 ~~—— (f) A prisoner whose minimum term of imprisonment is 2 years~~
16 ~~or more shall not be released on parole unless he or she has either~~
17 ~~earned a high school diploma or earned its equivalent in the form~~
18 ~~of a general education development (GED) certificate. The director~~
19 ~~of the department may waive the restriction imposed by this~~
20 ~~subdivision as to any prisoner who is over the age of 65 or who was~~
21 ~~gainfully employed immediately before committing the crime for~~
22 ~~which he or she was incarcerated. The department of corrections may~~
23 ~~also waive the restriction imposed by this subdivision as to any~~
24 ~~prisoner who has a learning disability, who does not have the~~
25 ~~necessary proficiency in English, or who for some other reason that~~
26 ~~is not the fault of the prisoner is unable to successfully complete~~
27 ~~the requirements for a high school diploma or a general education~~

~~development certificate. If the prisoner does not have the necessary proficiency in English, the department of corrections shall provide English language training for that prisoner necessary for the prisoner to begin working toward the completion of the requirements for a general education development certificate. This subdivision applies to prisoners sentenced for crimes committed after December 15, 1998. In providing an educational program leading to a high school degree or general education development certificate, the department shall give priority to prisoners sentenced for crimes committed on or before December 15, 1998.~~

(2) EXCEPT AS PROVIDED IN SECTION 34A AND SUBSECTION (3), A PRISONER WHO HAS A PAROLE GUIDELINE OF HIGH OR AVERAGE PROBABILITY UNDER SECTION 33E SHALL BE PLACED ON PAROLE WHEN THE PRISONER HAS SERVED THE MINIMUM SENTENCE IMPOSED BY THE COURT LESS ANY APPLICABLE GOOD TIME ALLOWANCES OR DISCIPLINARY CREDITS, EXCEPT THAT THE PAROLE BOARD MAY DEFER A PRISONER'S PAROLE UNTIL AFTER THAT DATE, BUT NOT LATER THAN THE DATE ON WHICH HE OR SHE HAS SERVED 120% OF THE MINIMUM SENTENCE, FOR EITHER OF THE FOLLOWING REASONS:

(A) TO ALLOW THE PRISONER TO COMPLETE REQUIRED PROGRAMS THAT ARE DETERMINED BY THE DEPARTMENT OR THE PAROLE BOARD TO REDUCE THE RISK TO THE PUBLIC SAFETY FROM THE PRISONER'S RELEASE.

(B) TO ALLOW A PERIOD OF TIME FOR THE PRISONER TO DEMONSTRATE POSITIVE INSTITUTIONAL CONDUCT.

(3) SUBSECTION (2) DOES NOT APPLY TO ANY OF THE FOLLOWING PRISONERS:

(A) A PRISONER SENTENCED FOR A FELONY FOR WHICH THE MAXIMUM

1 PENALTY IS IMPRISONMENT FOR LIFE.

2 (B) A PRISONER WHO HAS PENDING FELONY CHARGES OR DETAINERS.

3 (C) A PRISONER WHO WAS INTERVIEWED BY THE PAROLE BOARD AND
4 DENIED PAROLE UNDER SECTION 33E(5).

5 (4) ANY PRISONER NOT PLACED ON PAROLE UNDER SUBSECTION (2) WHO
6 HAS SERVED HIS OR HER MINIMUM SENTENCE SHALL BE PLACED ON PAROLE
7 NOT LATER THAN 9 MONTHS BEFORE THE EXPIRATION OF THE PRISONER'S
8 MAXIMUM SENTENCE IN ORDER TO ENSURE A PERIOD OF INTENSIVE
9 SUPERVISION IN THE COMMUNITY.

10 (5) A PRISONER WHOSE PAROLE IS RESCINDED UNDER SECTION 41
11 SHALL BE PLACED ON PAROLE AGAIN NOT MORE THAN 9 MONTHS FOLLOWING
12 THE DATE ON WHICH PAROLE WAS RESCINDED, UNLESS THE PRISONER'S
13 CONDUCT THAT LED TO THE PAROLE RESCISSION INVOLVED POSSESSION OR
14 USE OF A WEAPON OR INJURY TO A VICTIM, OR RESULTED FROM A SECOND OR
15 SUBSEQUENT PAROLE VIOLATION, IN WHICH CASE THE PAROLE BOARD SHALL
16 PLACE THE PRISONER ON PAROLE AGAIN AT ITS DISCRETION.

17 (6) ~~(2)~~—Paroles-in-custody to answer warrants filed by local
18 or out-of-state agencies, or immigration officials, are permissible
19 if an accredited agent of the agency filing the warrant calls for
20 the prisoner to be paroled in custody.

21 (7) ~~(3)~~—Pursuant to the administrative procedures act of 1969,
22 1969 PA 306, MCL 24.201 to 24.328, the parole board may promulgate
23 rules not inconsistent with this act with respect to conditions to
24 be imposed upon prisoners paroled under this act.

25 Sec. 33e. (1) The department shall develop parole guidelines
26 that are consistent with section 33(1)(a) and that shall govern the
27 exercise of the parole board's discretion pursuant to sections 34

1 and 35 as to the release of prisoners on parole under this act. The
 2 purpose of the parole guidelines shall be to assist the parole
 3 board in making release decisions that enhance the public safety.

4 (2) In developing the parole guidelines, the department shall
 5 **USE A VALIDATED RISK ASSESSMENT INSTRUMENT. THE DEPARTMENT SHALL**
 6 consider factors including, but not limited to, the following **IN**
 7 **THE DEVELOPMENT OF THE PAROLE GUIDELINES:**

8 ~~—— (a) The offense for which the prisoner is incarcerated at the~~
 9 ~~time of parole consideration.~~

10 (A) ~~(b)~~ The prisoner's institutional program performance.

11 (B) ~~(c)~~ The prisoner's institutional conduct.

12 (C) ~~(d)~~ The prisoner's prior criminal record. As used in this
 13 subdivision, "prior criminal record" means the recorded criminal
 14 history of a prisoner, including all misdemeanor and felony
 15 convictions, probation violations, juvenile adjudications for acts
 16 that would have been crimes if committed by an adult, parole
 17 failures, and delayed sentences.

18 (D) ~~(e)~~ Other relevant factors as determined by the
 19 department, if not otherwise prohibited by law.

20 ~~—— (3) In developing the parole guidelines, the department may~~
 21 ~~consider both of the following factors:~~

22 ~~—— (a) The prisoner's statistical risk screening.~~

23 ~~—— (b) The prisoner's age.~~

24 (3) ~~(4)~~ The department shall ensure that the parole guidelines
 25 do not create disparities in release decisions based on race,
 26 color, national origin, gender, religion, or disability.

27 (4) ~~(5)~~ The department shall promulgate rules pursuant to the

1 administrative procedures act of 1969, ~~Act No. 306 of the Public~~
2 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~
3 ~~Compiled Laws 1969 PA 306, MCL 24.201 TO 24.328,~~ which shall
4 prescribe the parole guidelines. ~~The department shall submit the~~
5 ~~proposed rules to the joint committee on administrative rules not~~
6 ~~later than April 1, 1994. Until the rules take effect, the director~~
7 ~~shall require that the parole guidelines be considered by the~~
8 ~~parole board in making release decisions. After the rules take~~
9 ~~effect, the director shall require that the parole board follow the~~
10 ~~parole guidelines.~~

11 (5) ~~(6)~~ The parole board may depart from the parole guidelines
12 by denying parole to a prisoner who has a high probability of
13 parole as determined under the parole guidelines or by granting
14 parole to a prisoner who has a low probability of parole as
15 determined under the parole guidelines. ~~A departure under this~~
16 ~~subsection shall be for substantial and compelling reasons stated~~
17 ~~in writing.~~ The parole board shall not use a prisoner's gender,
18 race, ethnicity, alienage, national origin, or religion to depart
19 from the recommended parole guidelines. **THE FOLLOWING ARE THE ONLY**
20 **REASONS FOR DEPARTING FROM A PAROLE GUIDELINE OF HIGH PROBABILITY**
21 **OF PAROLE:**

22 (A) **THE PRISONER'S CURRENT PSYCHOLOGICAL STATE AS DETERMINED**
23 **BY A PSYCHIATRIST BASED ON A DIAGNOSIS OF SERIOUS MENTAL ILLNESS**
24 **AND PSYCHOPATHOLOGY WOULD POSE A SIGNIFICANT RISK TO THE PUBLIC**
25 **SAFETY IF THE PRISONER WERE RELEASED TO PAROLE.**

26 (B) **THE PRISONER HAS DEMONSTRATED CONTINUED RISK TO THE PUBLIC**
27 **SAFETY THROUGH SERIOUS INSTITUTIONAL MISCONDUCT.**

1 (C) THE PRISONER IS SERVING A SENTENCE FOR WHICH THE MAXIMUM
2 PENALTY IS IMPRISONMENT FOR LIFE.

3 (D) THE PRISONER HAS PENDING FELONY CHARGES OR DETAINERS.

4 (E) A VALIDATED RISK ASSESSMENT INSTRUMENT HAS DEEMED THAT THE
5 PRISONER'S RISK OF REOFFENDING IS HIGH, IN THE ABSENCE OF A REENTRY
6 PLAN SUCH THAT THE PRISONER CANNOT BE EFFECTIVELY MANAGED IN THE
7 COMMUNITY.

8 (6) ~~(7)~~—Not less than once every 2 years, the department shall
9 review the correlation between the implementation of the parole
10 guidelines and the recidivism rate of paroled prisoners, and shall
11 submit to the joint committee on administrative rules any proposed
12 revisions to the administrative rules that the department considers
13 appropriate after conducting the review.

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

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

1 convicted.

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

14 (4) If a prisoner subject to disciplinary time is sentenced
15 for consecutive terms, whether received at the same time or at any
16 time during the life of the original sentence, the parole board has
17 jurisdiction over the prisoner for purposes of parole when the
18 prisoner has served the total time of the added minimum terms. The
19 maximum terms of the sentences shall be added to compute the new
20 maximum term under this subsection, and discharge shall be issued
21 only after the total of the maximum sentences has been served,
22 unless the prisoner is paroled and discharged upon satisfactory
23 completion of the parole.

24 (5) If a prisoner other than a prisoner subject to
25 disciplinary time has 1 or more consecutive terms remaining to
26 serve in addition to the term he or she is serving, the parole
27 board may terminate the sentence the prisoner is presently serving

1 at any time after the minimum term of the sentence has been served.

2 (6) A prisoner sentenced to imprisonment for life for any of
3 the following is not eligible for parole and is instead subject to
4 the provisions of section 44:

5 (a) First degree murder in violation of section 316 of the
6 Michigan penal code, 1931 PA 328, MCL 750.316.

7 (b) A violation of section 16(5) or 18(7) of the Michigan
8 penal code, 1931 PA 328, MCL 750.16 and 750.18.

9 (c) A violation of chapter XXXIII of the Michigan penal code,
10 1931 PA 328, MCL 750.200 to 750.212a.

11 (d) A violation of section 17764(7) of the public health code,
12 1978 PA 368, MCL 333.17764.

13 (e) First degree criminal sexual conduct in violation of
14 section 520b(2)(c) of the Michigan penal code, 1931 PA 328, MCL
15 750.520b.

16 (f) Any other violation for which parole eligibility is
17 expressly denied under state law.

18 (7) A prisoner sentenced to imprisonment for life, other than
19 a prisoner described in subsection (6), is subject to the
20 jurisdiction of the parole board and may be placed on parole
21 according to the conditions prescribed in subsection (8) if he or
22 she meets any of the following criteria:

23 (a) Except as provided in subdivision (b) or (c), the prisoner
24 has served 10 calendar years of the sentence for a crime committed
25 before October 1, 1992 or 15 calendar years of the sentence for a
26 crime committed on or after October 1, 1992.

27 (b) Except as provided in subsection (12), the prisoner has

1 served 20 calendar years of a sentence for violating or conspiring
2 to violate section 7401(2)(a)(i) of the public health code, 1978 PA
3 368, MCL 333.7401, and has another conviction for a serious crime.

4 (c) Except as provided in subsection (12), the prisoner has
5 served 17-1/2 calendar years of the sentence for violating or
6 conspiring to violate section 7401(2)(a)(i) of the public health
7 code, 1978 PA 368, MCL 333.7401, and does not have another
8 conviction for a serious crime.

9 (8) A parole granted to a prisoner under subsection (7) is
10 subject to the following conditions:

11 (a) At the conclusion of 10 calendar years of the prisoner's
12 sentence and thereafter as determined by the parole board until the
13 prisoner is paroled, discharged, or deceased, and in accordance
14 with the procedures described in subsection (9), 1 member of the
15 parole board shall interview the prisoner. The interview schedule
16 prescribed in this subdivision applies to all prisoners to whom
17 subsection (7) applies, regardless of the date on which they were
18 sentenced.

19 (b) In addition to the interview schedule prescribed in
20 subdivision (a), the parole board shall review the prisoner's file
21 at the conclusion of 15 calendar years of the prisoner's sentence
22 and every 5 years thereafter until the prisoner is paroled,
23 discharged, or deceased. A prisoner whose file is to be reviewed
24 under this subdivision shall be notified of the upcoming file
25 review at least 30 days before the file review takes place and
26 shall be allowed to submit written statements or documentary
27 evidence for the parole board's consideration in conducting the

1 file review.

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

11 (d) A parole granted under subsection (7) shall be for a
12 period of not less than 4 years and subject to the usual rules
13 pertaining to paroles granted by the parole board. A parole granted
14 under subsection (7) is not valid until the transcript of the
15 record is filed with the attorney general whose certification of
16 receipt of the transcript shall be returnable to the office of the
17 parole board within 5 days. Except for medical records protected
18 under section 2157 of the revised judicature act of 1961, 1961 PA
19 236, MCL 600.2157, the file of a prisoner granted a parole under
20 subsection (7) is a public record.

21 (9) An interview conducted under subsection (8)(a) is subject
22 to both of the following requirements:

23 (a) The prisoner shall be given written notice, not less than
24 30 days before the interview date, stating that the interview will
25 be conducted.

26 (b) The prisoner may be represented at the interview by an
27 individual of his or her choice. The representative shall not be

1 another prisoner. A prisoner is not entitled to appointed counsel
2 at public expense. The prisoner or representative may present
3 relevant evidence in favor of holding a public hearing as allowed
4 in subsection (8)(b).

5 (10) In determining whether a prisoner convicted of violating
6 or conspiring to violate section 7401(2)(a)(i) of the public health
7 code, 1978 PA 368, MCL 333.7401, and sentenced to imprisonment for
8 life before October 1, 1998 is to be released on parole, the parole
9 board shall consider all of the following:

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

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

15 (c) Any of the following:

16 (i) Whether the individual was a principal administrator,
17 organizer, or leader of an entity that the individual knew or had
18 reason to know was organized, in whole or in part, to commit
19 violations of section 7401 or 7403 of the public health code, 1978
20 PA 368, MCL 333.7401 and 333.7403, and whether the violation for
21 which the individual was convicted was committed to further the
22 interests of that entity.

23 (ii) Whether the individual was a principal administrator,
24 organizer, or leader of an entity that the individual knew or had
25 reason to know committed violations of section 7401 or 7403 of the
26 public health code, 1978 PA 368, MCL 333.7401 and 333.7403, and
27 whether the violation for which the individual was convicted was

1 committed to further the interests of that entity.

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

4 (iv) Whether the violation involved the delivery of a
5 controlled substance to an individual less than 17 years of age or
6 possession with intent to deliver a controlled substance to an
7 individual less than 17 years of age.

8 (11) ~~Except as provided in section 34a, a prisoner's release~~
9 ~~on parole is discretionary with the parole board.~~ The action of the
10 parole board in granting a parole is appealable by the prosecutor
11 of the county from which the prisoner was committed or the victim
12 of the crime for which the prisoner was convicted. The appeal shall
13 be to the circuit court in the county from which the prisoner was
14 committed, by leave of the court.

15 (12) If the sentencing judge, or his or her successor in
16 office, determines on the record that a prisoner described in
17 subsection (7)(b) or (c) sentenced to imprisonment for life for
18 violating or conspiring to violate section 7401(2)(a)(i) of the
19 public health code, 1978 PA 368, MCL 333.7401, has cooperated with
20 law enforcement, the prisoner is subject to the jurisdiction of the
21 parole board and may be released on parole as provided in
22 subsection (7)(b) or (c) 2-1/2 years earlier than the time
23 otherwise indicated in subsection (7)(b) or (c). The prisoner is
24 considered to have cooperated with law enforcement if the court
25 determines on the record that the prisoner had no relevant or
26 useful information to provide. The court shall not make a
27 determination that the prisoner failed or refused to cooperate with

1 law enforcement on grounds that the defendant exercised his or her
2 constitutional right to trial by jury. If the court determines at
3 sentencing that the defendant cooperated with law enforcement, the
4 court shall include its determination in the judgment of sentence.

5 (13) An individual convicted of violating or conspiring to
6 violate section 7401(2)(a)(ii) or 7403(2)(a)(ii) of the public health
7 code, 1978 PA 368, MCL 333.7401 and 333.7403, before March 1, 2003
8 is eligible for parole after serving the minimum of each sentence
9 imposed for that violation or 10 years of each sentence imposed for
10 that violation, whichever is less.

11 (14) An individual convicted of violating or conspiring to
12 violate section 7401(2)(a)(iii) or 7403(2)(a)(iii) of the public health
13 code, 1978 PA 368, MCL 333.7401 and 333.7403, before March 1, 2003
14 is eligible for parole after serving the minimum of each sentence
15 imposed for that violation or 5 years of each sentence imposed for
16 that violation, whichever is less.

17 (15) An individual convicted of violating or conspiring to
18 violate section 7401(2)(a)(iv) or 7403(2)(a)(iv) of the public health
19 code, 1978 PA 368, MCL 333.7401 and 333.7403, before March 1, 2003
20 who is sentenced to a term of imprisonment that is consecutive to a
21 term of imprisonment imposed for any other violation of section
22 7401(2)(a)(i) to (iv) or section 7403(2)(a)(i) to (iv) is eligible for
23 parole after serving 1/2 of the minimum sentence imposed for each
24 violation of section 7401(2)(a)(iv) or 7403(2)(a)(iv). This
25 subsection does not apply if the sentence was imposed for a
26 conviction for a new offense committed while the individual is on
27 probation or parole.

1 (16) The parole board shall provide notice to the prosecuting
2 attorney of the county in which the individual was convicted before
3 granting parole to the individual under subsection (13), (14), or
4 (15).

5 (17) As used in this section:

6 (a) "Serious crime" means violating or conspiring to violate
7 article 7 of the public health code, 1978 PA 368, MCL 333.7101 to
8 333.7545, that is punishable by imprisonment for more than 4 years,
9 or an offense against a person in violation of section 83, 84, 86,
10 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d,
11 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA 328,
12 MCL 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.316,
13 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b,
14 750.520c, 750.520d, 750.520g, 750.529, 750.529a, and 750.530.

15 (b) "State correctional facility" means a facility that houses
16 prisoners committed to the jurisdiction of the department. ~~and~~
17 ~~includes a youth correctional facility operated under section 20g~~
18 ~~by the department or a private vendor.~~

19 Sec. 35. (1) ~~The release of a prisoner on parole shall be~~
20 ~~granted solely upon the initiative of the parole board.~~ The parole
21 board may grant a parole without interviewing the prisoner -
22 ~~However, beginning on the date on which the administrative rules~~
23 ~~prescribing parole guidelines pursuant to section 33e(5) take~~
24 ~~effect, the parole board may grant a parole without interviewing~~
25 ~~the prisoner only~~ if, after evaluating the prisoner according to
26 the parole guidelines, the parole board determines that the
27 prisoner has a high probability of being paroled and the parole

1 board therefore intends to parole the prisoner. Except as provided
2 in subsection (2), a prisoner shall not be denied parole without an
3 interview before 1 member of the parole board. The interview shall
4 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 of
8 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 **WILLIAM VAN**
11 **REGENMORTER** crime victim's rights act, 1985 PA 87, MCL 780.751 to
12 780.834, or under any other provision of law. The parole board
13 shall not consider any of the following factors in making a parole
14 determination:

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

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

23 (2) ~~Beginning on the date on which the administrative rules~~
24 ~~prescribing the parole guidelines take effect pursuant to section~~
25 ~~33e(5) JANUARY 26, 1996~~, if, after evaluating a prisoner according
26 to the parole guidelines, the parole board determines that the
27 prisoner has a low probability of being paroled and the parole

1 board therefore does not intend to parole the prisoner, the parole
2 board shall not be required to interview the prisoner before
3 denying parole to the prisoner.

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

6 (a) A prisoner's marital history.

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

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

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

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

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

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

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

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

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

25 **(D) THE RESULTS ON ANY VALIDATED RISK ASSESSMENT INSTRUMENTS.**

26 **(E) ~~(d)~~** Whether the prisoner fully cooperated with the state
27 by providing complete financial information as required under

1 section 3a of the state correctional facility reimbursement act,
2 1935 PA 253, MCL 800.403a.

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

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

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

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

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

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

3 (12) When the parole board makes a final determination not to
4 release a prisoner, the prisoner shall be provided with a written
5 explanation of the reason for denial and, if appropriate, specific
6 recommendations for corrective action the prisoner may take to
7 facilitate release.

8 (13) This section does not apply to the placement on parole of
9 a person in conjunction with special alternative incarceration
10 under section 34a(7).