

SENATE BILL No. 272

February 19, 2009, Introduced by Senators SCOTT, CLARK-COLEMAN, BRATER and THOMAS and referred to the Committee on Judiciary.

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending sections 35, 37, and 67 (MCL 791.235, 791.237, and
791.267), section 35 as amended by 1998 PA 315, section 37 as
amended by 1994 PA 217, and section 67 as amended by 1996 PA 565,
and by adding sections 34b and 37a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 34B. (1) EVERY PRISONER SHALL MAKE ALL REASONABLE
2 EFFORTS, WHILE INCARCERATED, TO OBTAIN ANY 2 OF THE IDENTIFICATION
3 DOCUMENTS THAT, IN COMBINATION WITH THE PRISONER IDENTIFICATION
4 CARD ISSUED UNDER SECTION 37(4), WOULD SATISFY THE APPLICATION
5 REQUIREMENTS FOR OBTAINING AN OPERATOR'S LICENSE OR STATE PERSONAL
6 IDENTIFICATION CARD AS ESTABLISHED BY THE SECRETARY OF STATE UNDER

1 SECTION 307 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.307,
2 OR SECTION 1 OF 1972 PA 222, MCL 28.291. A PRISONER'S COOPERATION
3 UNDER THIS SUBSECTION IS A FACTOR THAT IS TO BE CONSIDERED AS PART
4 OF THE PRISONER'S PAROLE ELIGIBILITY REPORT, AS PROVIDED IN SECTION
5 35(7)(E). THIS SUBSECTION APPLIES TO ANY PRISONER WHO BEGINS
6 SERVING A SENTENCE UNDER THE JURISDICTION OF THE DEPARTMENT AFTER
7 THE EFFECTIVE DATE OF THIS SECTION AND ALSO APPLIES, BEGINNING
8 JANUARY 1, 2010, TO ANY PRISONER WHO IS SERVING A SENTENCE OF
9 IMPRISONMENT ON THE EFFECTIVE DATE OF THIS SECTION.

10 (2) EACH PRISONER SHALL BE GIVEN A FORM LISTING THE PERSONAL
11 IDENTIFICATION DOCUMENTS REFERENCED IN SUBSECTION (1). THE FORM
12 SHALL INCLUDE A STATEMENT THAT THE DEPARTMENT WILL ASSIST THE
13 PRISONER IN OBTAINING THE REQUIRED DOCUMENTS. THE FORM SHALL ALSO
14 INCLUDE ANY OTHER INFORMATION THE DEPARTMENT DETERMINES IS
15 NECESSARY. FOR A PRISONER WHO BEGINS SERVING A SENTENCE UNDER THE
16 JURISDICTION OF THE DEPARTMENT AFTER THE EFFECTIVE DATE OF THIS
17 SECTION, THE DEPARTMENT SHALL PROVIDE THE FORM NOT LATER THAN 10
18 DAYS AFTER THE PRISONER ARRIVES AT A RECEPTION CENTER UNDER SECTION
19 67(1). FOR ANY PRISONER WHO IS SERVING A SENTENCE UNDER THE
20 JURISDICTION OF THE DEPARTMENT ON THE EFFECTIVE DATE OF THIS
21 SECTION, THE DEPARTMENT SHALL PROVIDE THE FORM NOT LATER THAN
22 OCTOBER 1, 2009.

23 (3) THE DIRECTOR OF THE DEPARTMENT MAY WAIVE THE REQUIREMENTS
24 OF SUBSECTION (1) FOR ANY PRISONER WHO, FOR ANY REASON THAT IS NOT
25 THE FAULT OF THE PRISONER, IS UNABLE TO COMPLY WITH SUBSECTION (1).

26 (4) THE DEPARTMENT SHALL ASSIST EACH PRISONER IN OBTAINING THE
27 DOCUMENTS REFERENCED IN SUBSECTION (1). A PRISONER MAY EXPEND MONEY

1 FROM HIS OR HER INSTITUTIONAL ACCOUNT TO DEFRAY ANY EXPENSES
2 INCURRED IN OBTAINING THE DOCUMENTS. UPON RELEASE ON PAROLE OR
3 RELEASE WITHOUT PAROLE, THE DEPARTMENT SHALL PROVIDE THE DOCUMENTS
4 OBTAINED TO THE PRISONER.

5 (5) THE DEPARTMENT SHALL ALLOW THE SECRETARY OF STATE TO HAVE
6 ELECTRONIC ACCESS TO PRISONER BIOGRAPHY INFORMATION FOR THE PURPOSE
7 OF VERIFYING THE IDENTITY OF PRISONERS WHO APPLY FOR DRIVER
8 LICENSES OR STATE PERSONAL IDENTIFICATION CARDS.

9 (6) THE REENTRY SUCCESS FUND IS CREATED WITHIN THE STATE
10 TREASURY. THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS
11 FROM ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER
12 SHALL DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL
13 CREDIT TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.
14 MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL REMAIN IN
15 THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

16 (7) THE DEPARTMENT OF CORRECTIONS SHALL EXPEND MONEY FROM THE
17 REENTRY SUCCESS FUND, UPON APPROPRIATION, ONLY FOR THE EXPENSE OF
18 OBTAINING THE DOCUMENTS REFERENCED IN SUBSECTION (1) FOR PRISONERS
19 WHO ARE INDIGENT.

20 Sec. 35. (1) The release of a prisoner on parole shall be
21 granted solely upon the initiative of the parole board. The parole
22 board may grant a parole without interviewing the prisoner.
23 However, beginning ~~on the date on which the administrative rules~~
24 ~~prescribing parole guidelines pursuant to section 33c(5) take~~
25 ~~effect~~ JANUARY 26, 1996, the parole board may grant a parole
26 without interviewing the prisoner only if, after evaluating the
27 prisoner according to the parole guidelines, the parole board

determines that the prisoner has a high probability of being paroled and the parole board therefore intends to parole the prisoner. Except as provided in subsection (2), a prisoner shall not be denied parole without an interview before 1 member of the parole board. The interview shall be conducted at least 1 month before the expiration of the prisoner's minimum sentence less applicable good time and disciplinary credits for a prisoner eligible for good time and disciplinary credits, or at least 1 month before the expiration of the prisoner's minimum sentence for a prisoner subject to disciplinary time. The parole board shall consider any statement made to the parole board by a crime victim under the **WILLIAM VAN REGENMORTER** crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, or under any other provision of law. The parole board shall not consider any of the following factors in making a parole determination:

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

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

~~(2) Beginning on the date on which the administrative rules prescribing the parole guidelines take effect pursuant to section 33e(5) **JANUARY 26, 1996**, if, after evaluating a prisoner according to the parole guidelines, the parole board determines that the~~

1 prisoner has a low probability of being paroled and the parole
2 board therefore does not intend to parole the prisoner, the parole
3 board ~~shall~~**IS** not ~~be~~ required to interview the prisoner before
4 denying parole to the prisoner.

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

7 (a) A prisoner's marital history.

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

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

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

26 (6) A prisoner may waive the right to an interview by 1 member
27 of the parole board. The waiver of the right to be interviewed

1 shall be given not more than 30 days after the notice of intent to
2 conduct an interview is issued and shall be made in writing. During
3 the interview held pursuant to a notice of intent to conduct an
4 interview, the prisoner may be represented by an individual of his
5 or her choice. The representative shall not be another prisoner or
6 an attorney. A prisoner is not entitled to appointed counsel at
7 public expense. The prisoner or representative may present relevant
8 evidence in support of release. This subsection does not apply
9 until April 1, 1983.

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

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

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

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

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

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

3 **(E) WHETHER THE PRISONER COMPLIED WITH THE REQUIREMENTS OF**
4 **SECTION 34B FOR OBTAINING IDENTIFICATION DOCUMENTS.**

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

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

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

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

21 (11) The department shall submit a petition to the appropriate
22 court under section 434 of the mental health code, 1974 PA 258, MCL
23 330.1434, for any prisoner being paroled or being released after
24 serving his or her maximum sentence whom the department considers
25 to be a person requiring treatment. The parole board shall require
26 mental health treatment as a special condition of parole for any
27 parolee whom the department has determined to be a person requiring

1 treatment whether or not the petition filed for that prisoner is
2 granted by the court. As used in this subsection, "person requiring
3 treatment" means that term as defined in section 401 of the mental
4 health code, 1974 PA 258, MCL 330.1401.

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

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

13 Sec. 37. (1) When a prisoner is released upon parole, the
14 department shall provide the prisoner with clothing and a
15 nontransferable ticket to the place in which the paroled prisoner
16 is to reside. At the discretion of the deputy director in charge of
17 the ~~bureau of field services~~ **OPERATIONS ADMINISTRATION**, the paroled
18 prisoner may be advanced the expense of the transportation to the
19 place of residence and a sum of money necessary for reasonable
20 maintenance and subsistence for a 2-week period, as determined by
21 the deputy director. A sum of money given under this section shall
22 be repaid to the state by the paroled prisoner within 180 days
23 after the money is received by the paroled prisoner.

24 (2) If a prisoner who is discharged without being paroled has
25 less than \$75.00 in his or her immediate possession, has no visible
26 means of support, and has conserved personal funds in a reasonable
27 manner, the department shall furnish to that prisoner **ALL OF** the

1 following:

2 (a) Clothing that is appropriate for the season.

3 (b) A sum of \$75.00 including that amount already in the
4 prisoner's possession.

5 (c) Transportation to a place in this state where the prisoner
6 will reside or work or to the place where the prisoner was
7 convicted or sentenced.

8 (3) When providing for transportation, the department shall DO

9 **ALL OF THE FOLLOWING:**

10 (a) Use the most economical available public transportation.

11 (b) Arrange for and purchase the prisoner's transportation
12 ticket.

13 (c) Assume responsibility for delivering that prisoner to the
14 site of departure and confirming the prisoner's departure from the
15 site.

16 (4) **THE DEPARTMENT SHALL PROVIDE AN IDENTIFICATION CARD TO**
17 **EACH PRISONER WHEN HE OR SHE IS RELEASED ON PAROLE OR IS RELEASED**
18 **UPON COMPLETION OF HIS OR HER MAXIMUM SENTENCE. THE IDENTIFICATION**
19 **CARD SHALL INCLUDE ALL OF THE FOLLOWING:**

20 (A) **THE PRISONER'S PHOTOGRAPH, TAKEN NOT EARLIER THAN 6 MONTHS**
21 **BEFORE THE PRISONER'S DATE OF RELEASE.**

22 (B) **THE PRISONER'S LEGAL NAME.**

23 (C) **THE PRISONER'S PLACE AND DATE OF BIRTH.**

24 (D) **THE DATE ON WHICH THE PRISONER BEGAN HIS OR HER TERM OF**
25 **INCARCERATION AT A STATE CORRECTIONAL FACILITY.**

26 (E) **A STATEMENT AS TO WHETHER THE PRISONER WAS PLACED ON**
27 **PAROLE.**

1 (F) A LIST OF THE PRISONER'S KNOWN ALIASES AND FORMER LEGAL
2 NAMES, IF ANY.

3 (5) ~~(4)~~—The cost of implementing this section shall be paid
4 out of the general fund of the state.

5 SEC. 37A. IF A PRISONER HAS MONEY REMAINING IN HIS OR HER
6 INSTITUTIONAL ACCOUNT ON THE DATE OF HIS OR HER RELEASE ON PAROLE
7 OR RELEASE UPON COMPLETING HIS OR HER MAXIMUM SENTENCE, THE
8 DEPARTMENT, UPON THE PRISONER'S RELEASE, SHALL ISSUE TO THE
9 PRISONER A DEBIT CARD THAT ALLOWS THE PRISONER TO MAKE ELECTRONIC
10 TRANSFERS OF FUNDS FROM THE PRISONER'S INSTITUTIONAL ACCOUNT.

11 Sec. 67. (1) Quarters for temporary confinement apart from
12 those of regular inmates shall be provided for convicted prisoners
13 upon commitment at each of the state correctional facilities, which
14 the director shall designate as a reception center. Within 60 days
15 after the arrival of a convicted prisoner at ~~such~~ a state
16 correctional facility, the classification committee shall ~~make~~ DO
17 BOTH OF THE FOLLOWING:

18 (A) MAKE and complete a comprehensive study of the prisoner,
19 including physical and psychiatric examinations, to ensure that the
20 prisoner is confined in the state correctional facility suited to
21 the type of rehabilitation required in his or her case. The warden
22 of the state correctional facility shall deliver a report of the
23 study of the classification committee to the deputy director of the
24 correctional facilities administration, who shall, within 5 days
25 after receipt of the report, execute an order to confine the
26 prisoner in the state correctional facility determined as suitable
27 by the deputy director.

1 (B) REQUIRE THE PRISONER TO EXECUTE A WRITTEN IDENTIFICATION
2 STATEMENT, ON A FORM PROVIDED BY THE DEPARTMENT. THE STATEMENT
3 SHALL BE SIGNED BY THE PRISONER UNDER PENALTY OF PERJURY. THE
4 STATEMENT SHALL CONTAIN ALL OF THE FOLLOWING INFORMATION CONCERNING
5 THE PRISONER:

6 (i) HIS OR HER NAME GIVEN AT BIRTH.

7 (ii) HIS OR HER CURRENT LEGAL NAME, IF DIFFERENT FROM HIS OR
8 HER BIRTH NAME.

9 (iii) HIS OR HER PLACE AND DATE OF BIRTH.

10 (2) Immediately upon arrival at a reception center designated
11 pursuant to subsection (1), each incoming prisoner shall undergo a
12 test for HIV or an antibody to HIV. This subsection does not apply
13 if an incoming prisoner has been tested for HIV or an antibody to
14 HIV under section 5129 of the public health code, ~~Act No. 368 of~~
15 ~~the Public Acts of 1978, being section 333.5129 of the Michigan~~
16 ~~Compiled Laws 1978 PA 368, MCL 333.5129~~, within the 3 months
17 immediately preceding the date of the prisoner's arrival at the
18 reception center, as indicated by the record transferred to the
19 department by the court under that section.

20 (3) If a prisoner receives a positive test result and is
21 subsequently subject to discipline by the department for sexual
22 misconduct that could transmit HIV, illegal intravenous use of
23 controlled substances, or assaultive or predatory behavior that
24 could transmit HIV, the department shall house that prisoner in
25 administrative segregation, an inpatient health care unit, or a
26 unit separate from the general prisoner population, as determined
27 by the department.

1 (4) The department shall report each positive test result to
2 the department of community health, in compliance with section 5114
3 of ~~Act No. 368 of the Public Acts of 1978, being section 333.5114~~
4 ~~of the Michigan Compiled Laws~~ **THE PUBLIC HEALTH CODE, 1978 PA 368,**
5 **MCL 333.5114.**

6 (5) If an employee of the department sustains a percutaneous,
7 mucous membrane, or open wound exposure to the blood or body fluid
8 of a prisoner, the employee may, and the department shall, proceed
9 under section 67b.

10 (6) Upon the request of an employee of the department, the
11 department shall provide or arrange for a test for HIV or an
12 antibody to HIV for that employee, free of charge.

13 (7) Upon the request of an employee of the department, the
14 department shall provide to that employee the equipment necessary
15 to implement universal precautions to prevent transmission of HIV
16 infection.

17 (8) A prisoner who receives a positive HIV test result under
18 subsection (5) shall not work in a health facility operated by the
19 department.

20 (9) The department shall conduct a seroprevalence study of the
21 prisoners in all state correctional facilities to determine the
22 percentage of prisoners who are HIV infected.

23 (10) The results of a test for HIV or an antibody to HIV
24 conducted under this section shall be disclosed by the department
25 pursuant to section 67b.

26 (11) The deputy director of the correctional facilities
27 administration shall take steps to ensure that all prisoners who

1 receive HIV testing receive counseling regarding AIDS including, at
2 a minimum, treatment, transmission, and protective measures.

3 (12) The department, in conjunction with the department of
4 community health, shall develop and implement a comprehensive AIDS
5 education program designed specifically for correctional
6 environments. The program shall be conducted by the bureau within
7 the department responsible for health care, for staff and for
8 prisoners at each state correctional facility.

9 ~~— (13) By March 30, 1991, the department shall submit a report~~
10 ~~regarding the testing component, managerial aspects, and~~
11 ~~effectiveness of subsections (2) to (12) to the senate and house~~
12 ~~committees with jurisdiction over matters pertaining to~~
13 ~~corrections, and to the senate and house committees with~~
14 ~~jurisdiction over matters pertaining to public health.~~

15 (13) ~~(14)~~ As used in this section:

16 (a) "AIDS" means acquired immunodeficiency syndrome.

17 (b) "HIV" means human immunodeficiency virus.

18 (c) "Positive test result" means a double positive enzyme-
19 linked immunosorbent assay test, combined with a positive western
20 blot assay test, or a positive test under an HIV test that is
21 considered reliable by the federal centers for disease control and
22 is approved by the department of community health.

23 Enacting section 1. This amendatory act does not take effect
24 unless all of the following bills of the 95th Legislature are
25 enacted into law:

26 (a) Senate Bill No. 273.

27

1 (b) Senate Bill No. 271.

2