

SUBSTITUTE FOR
SENATE BILL NO. 877

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending sections 20g, 20i, 29, 63, 63a, 69a, and 70 (MCL
791.220g, 791.220i, 791.229, 791.263, 791.263a, 791.269a, and
791.270), section 20g as amended by 2000 PA 211, section 20i as
added by 2006 PA 351, section 29 as amended by 2010 PA 248, and
sections 63, 63a, 69a, and 70 as amended by 1998 PA 512.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20g. ~~(1) The department may establish a youth~~
2 ~~correctional facility which shall house only prisoners committed to~~
3 ~~the jurisdiction of the department who are 19 years of age or less.~~
4 ~~If the department establishes or contracts with a private vendor~~
5 ~~for the operation of a youth correctional facility, following~~
6 ~~intake processing in a department operated facility, the department~~

~~shall house all male prisoners who are 16 years of age or less at the youth correctional facility unless the department determines that the prisoner should be housed at a different facility for reasons of security, safety, or because of the prisoner's specialized physical or mental health care needs.~~

~~—— (2) Except as provided in subsection (3), a prisoner who is 16 years of age or less and housed at a youth correctional facility shall only be placed in a general population housing unit with prisoners who are 16 years of age or less.~~

~~—— (3) A prisoner who becomes 17 years of age while being housed at a youth correctional facility and who has a satisfactory prison record may remain in a general population housing unit for no more than 1 year with prisoners who are 16 years of age or less.~~

~~—— (4) Except as provided in subsection (3), a prisoner who is 16 years of age or less and housed at a youth correctional facility shall not be allowed to be in the proximity of a prisoner who is 17 years of age or more without the presence and direct supervision of custody personnel in the immediate vicinity.~~

~~—— (5) The department may establish and operate the youth correctional facility or may contract on behalf of the state with a private vendor for the construction or operation, or both, of the youth correctional facility. If the department contracts with a private vendor to construct, rehabilitate, develop, renovate, or operate any existing or anticipated facility pursuant to this section, the department shall require a written certification from the private vendor regarding all of the following:~~

~~—— (a) If practicable to efficiently and effectively complete the~~

~~project, the private vendor shall follow a competitive bid process for the construction, rehabilitation, development, or renovation of the facility, and this process shall be open to all Michigan residents and firms. The private vendor shall not discriminate against any contractor on the basis of its affiliation or nonaffiliation with any collective bargaining organization.~~

~~—— (b) The private vendor shall make a good faith effort to employ, if qualified, Michigan residents at the facility.~~

~~—— (c) The private vendor shall make a good faith effort to employ or contract with Michigan residents and firms to construct, rehabilitate, develop, or renovate the facility.~~

~~—— (6) If the department contracts with a private vendor for the operation of the youth correctional facility, the department shall require by contract that the personnel employed by the private vendor in the operation of the facility be certified as correctional officers to the same extent as would be required if those personnel were employed in a correctional facility operated by the department. The department also shall require by contract that the private vendor meet requirements specified by the department regarding security, protection of the public, inspections by the department, programming, liability and insurance, conditions of confinement, educational services required under subsection (11), and any other issues the department considers necessary for the operation of the youth correctional facility. The department shall also require that the contract include provisions to protect the public's interest if the private vendor defaults on the contract. Before finalizing a contract with~~

~~a private vendor for the construction or operation of the youth
correctional facility, the department shall submit the proposed
contract to the standing committees of the senate and the house of
representatives having jurisdiction of corrections issues, the
corrections subcommittees of the standing committees on
appropriations of the senate and the house of representatives, and,
with regard to proposed construction contracts, the joint committee
on capital outlay. A contract between the department and a private
vendor for the construction or operation of the youth correctional
facility shall be contingent upon appropriation of the required
funding. If the department contracts with a private vendor under
this section, the selection of that private vendor shall be by
open, competitive bid.~~

~~—— (7) The department shall not site a youth correctional
facility under this section in a city, village, or township unless
the local legislative body of that city, village, or township
adopts a resolution approving the location.~~

~~—— (8) A private vendor operating a youth correctional facility
under a contract under this section shall not do any of the
following, unless directed to do so by the department policy:~~

~~—— (a) Calculate inmate release and parole eligibility dates.~~

~~—— (b) Award good time or disciplinary credits, or impose
disciplinary time.~~

~~—— (c) Approve inmates for extensions of limits of confinement.~~

~~—— (9) The youth correctional facility shall be open to visits
during all business hours, and during nonbusiness hours unless an
emergency prevents it, by any elected state senator or state~~

1 ~~representative.~~

2 ~~—— (10) Once each year, the department shall report on the~~
3 ~~operation of the facility. Copies of the report shall be submitted~~
4 ~~to the chairpersons of the house and senate committees responsible~~
5 ~~for legislation on corrections or judicial issues, and to the clerk~~
6 ~~of the house of representatives and the secretary of the senate.~~

7 ~~—— (11) Regardless of whether the department itself operates the~~
8 ~~youth correctional facility or contracts with a private vendor to~~
9 ~~operate the youth correctional facility, all of the following~~
10 ~~educational services shall be provided for juvenile prisoners~~
11 ~~housed at the facility who have not earned a high school diploma or~~
12 ~~received a general education certificate (GED):~~

13 ~~—— (a) The department or private vendor shall require that a~~
14 ~~prisoner whose academic achievement level is not sufficient to~~
15 ~~allow the prisoner to participate effectively in a program leading~~
16 ~~to the attainment of a GED certificate participate in classes that~~
17 ~~will prepare him or her to participate effectively in the GED~~
18 ~~program, and shall provide those classes in the facility.~~

19 ~~—— (b) The department or private vendor shall require that a~~
20 ~~prisoner who successfully completes classes described in~~
21 ~~subdivision (a), or whose academic achievement level is otherwise~~
22 ~~sufficient, participate in classes leading to the attainment of a~~
23 ~~GED certificate, and shall provide those classes.~~

24 ~~—— (12) Neither the department nor the private vendor shall seek~~
25 ~~to have the youth correctional facility authorized as a public~~
26 ~~school academy under the revised school code, 1976 PA 451, MCL~~
27 ~~380.1 to 380.1852.~~

~~—— (13) A private vendor that operates the youth correctional facility under a contract with the department shall provide written notice of its intention to discontinue its operation of the facility. This subsection does not authorize or limit liability for a breach or default of contract. If the reason for the discontinuance is that the private vendor intends not to renew the contract, the notice shall be delivered to the director of the department at least 1 year before the contract expiration date. If the discontinuance is for any other reason, the notice shall be delivered to the director of the department at least 6 months before the date on which the private vendor will discontinue its operation of the facility. This subsection does not authorize or limit liability for a breach or default of contract.~~

(1) THE DEPARTMENT MAY ENTER INTO A CONTRACT WITH THE CONTRACTOR OF THE PRIVATELY OWNED CORRECTIONAL FACILITY IN WEBBER TOWNSHIP, LAKE COUNTY, MICHIGAN OR WITH 1 OR MORE OTHER CONTRACTORS TO HOUSE AND MANAGE INMATES UNDER THE JURISDICTION OF THE DEPARTMENT. A CONTRACT MAY PROVIDE FOR THE HOUSING AND MANAGEMENT OF INMATES IN A DEPARTMENTAL FACILITY OR IN A PRIVATELY OWNED FACILITY THAT IS LOCATED WITHIN THIS STATE. EACH CONTRACT SHALL BE MADE THROUGH A COMPETITIVE BIDDING PROCESS AND SHALL ONLY BE MADE IF THE ANNUAL COST SAVINGS TO THE STATE UNDER THE CONTRACT WILL BE AT LEAST 10% OF THE COST OF IN-SCOPE SERVICES. IF THE DEPARTMENT CONTRACTS FOR THE HOUSING AND MANAGEMENT OF DEPARTMENT INMATES, THE DEPARTMENT SHALL REQUIRE A WRITTEN CERTIFICATION FROM THE CONTRACTOR THAT THE CONTRACTOR SHALL NOT DISCRIMINATE AGAINST ANY OTHER CONTRACTOR ON THE BASIS OF ITS AFFILIATION OR NONAFFILIATION

1 WITH ANY COLLECTIVE BARGAINING ORGANIZATION AND SHALL MAKE A GOOD-
2 FAITH EFFORT TO EMPLOY, IF QUALIFIED, MICHIGAN RESIDENTS AT THE
3 FACILITY.

4 (2) THE CONTRACT BETWEEN THE DEPARTMENT AND THE CONTRACTOR
5 SHALL BE FOR AN INITIAL TERM OF 5 YEARS, SUBJECT TO RENEWALS BY
6 MUTUAL AGREEMENT OF 2 YEARS EACH. THE CONTRACT SHALL REQUIRE THAT
7 THE PERSONNEL EMPLOYED BY THE CONTRACTOR IN THE OPERATION OF THE
8 FACILITY BE CERTIFIED AS CORRECTIONAL OFFICERS TO THE SAME EXTENT
9 AS WOULD BE REQUIRED IF THOSE PERSONNEL WERE EMPLOYED IN A
10 CORRECTIONAL FACILITY OPERATED BY THE DEPARTMENT. THE DEPARTMENT
11 ALSO SHALL REQUIRE BY CONTRACT THAT THE CONTRACTOR MEET
12 REQUIREMENTS SPECIFIED BY THE DEPARTMENT REGARDING SECURITY,
13 PROTECTION OF THE PUBLIC, INSPECTIONS BY THE DEPARTMENT,
14 PROGRAMMING, LIABILITY AND INSURANCE, CONDITIONS OF CONFINEMENT,
15 EDUCATIONAL SERVICES, AND ANY OTHER ISSUES THE DEPARTMENT CONSIDERS
16 NECESSARY FOR THE OPERATION OF THE CORRECTIONAL FACILITY. ANY
17 CONTRACT BETWEEN THE DEPARTMENT AND A CONTRACTOR FOR THE OPERATION
18 OF THE CORRECTIONAL FACILITY SHALL BE CONTINGENT UPON APPROPRIATION
19 OF THE REQUIRED FUNDING.

20 (3) THE CONTRACTOR OPERATING A CORRECTIONAL FACILITY PURSUANT
21 TO A CONTRACT UNDER THIS SECTION SHALL NOT DO ANY OF THE FOLLOWING,
22 UNLESS DIRECTED TO DO SO BY DEPARTMENT POLICY:

23 (A) CALCULATE INMATE RELEASE AND PAROLE ELIGIBILITY DATES.

24 (B) AWARD GOOD TIME OR DISCIPLINARY CREDITS, OR IMPOSE
25 DISCIPLINARY TIME.

26 (C) APPROVE INMATES FOR EXTENSIONS OF LIMITS OF CONFINEMENT.

27 (4) THE CORRECTIONAL FACILITY SHALL BE OPEN TO VISITS DURING

1 ALL BUSINESS HOURS AND DURING NONBUSINESS HOURS, UNLESS AN
2 EMERGENCY PREVENTS IT, BY ANY ELECTED STATE SENATOR OR STATE
3 REPRESENTATIVE AND BY THE LEGISLATIVE CORRECTIONS OMBUDSMAN AND
4 MEMBERS OF HIS OR HER STAFF.

5 (5) ONCE EACH YEAR, THE DEPARTMENT SHALL REPORT ON THE
6 OPERATION OF THE FACILITY. COPIES OF THE REPORT SHALL BE SUBMITTED
7 TO THE CHAIRPERSONS OF THE HOUSE AND SENATE COMMITTEES RESPONSIBLE
8 FOR LEGISLATION ON CORRECTIONS OR JUDICIAL ISSUES AND TO THE CLERK
9 OF THE HOUSE OF REPRESENTATIVES AND THE SECRETARY OF THE SENATE.

10 Sec. 20i. (1) If the ~~Michigan youth correctional facility~~
11 ~~established pursuant to~~ **PREVIOUSLY OPERATED UNDER** section 20g **AS**
12 **THE MICHIGAN YOUTH CORRECTIONAL FACILITY** in Webber township, Lake
13 county, Michigan, is not utilized by the department for housing
14 inmates or detainees under the jurisdiction of the department, the
15 private ~~vendor~~ **CONTRACTOR** that operates the ~~Michigan youth~~ **THAT**
16 correctional facility may utilize the facility for housing,
17 custody, and care of detainees or inmates from other local, state,
18 or federal agencies, either by directly contracting with those
19 local, state, or federal agencies or by having 1 or more local,
20 state, or federal agencies enter into an interlocal agreement with
21 Webber township, Lake county, or the county sheriff for Lake
22 county, who in turn may contract with the private ~~vendor~~ **CONTRACTOR**
23 for services to be provided under the terms of the interlocal
24 agreement, subject to the requirements of this section. If all
25 contractual factors regarding potential inmates or detainees are
26 equal, the private ~~vendor~~ **CONTRACTOR** shall give preference to the
27 admission of inmates or detainees sent from agencies within this

1 state.

2 (2) Any contract under this section for the housing, custody,
3 and care of detainees or inmates from other local, state, or
4 federal agencies shall require all of the following:

5 (a) The private ~~vendor~~**CONTRACTOR** that operates the facility
6 shall do all of the following:

7 (i) Obtain accreditation of the facility by the American
8 correctional association within 24 months after the private ~~vendor~~
9 **CONTRACTOR** commences operations at the facility and maintain that
10 accreditation throughout the term of any contract for the use of
11 the facility.

12 (ii) Operate the facility in compliance with the applicable
13 standards of the American correctional association.

14 (b) The personnel employed by the private ~~vendor~~**CONTRACTOR** in
15 the operation of the facility shall meet the employment and
16 training requirements set forth in the applicable standards of the
17 American correctional association, and also shall meet any higher
18 training and employment standards that may be mandated under a
19 contract between the private ~~vendor~~**CONTRACTOR** and a local, state,
20 or federal agency that sends inmates or detainees to the facility.

21 (c) Any serious incident that occurs at the facility shall be
22 reported immediately to the sheriff of Lake county and the state
23 police.

24 (3) An inmate or detainee housed at the facility shall not
25 participate in work release, a work camp, or another similar
26 program or activity occurring outside the secure perimeter of the
27 facility **WITHOUT THE AUTHORIZATION OF THE DEPARTMENT.**

1 (4) The facility shall allow the presence of on-site monitors
2 from any local, state, or federal agency that sends inmates or
3 detainees to the facility, for the purpose of monitoring the
4 conditions of confinement of those inmates or detainees. Whenever
5 the private ~~vender~~**CONTRACTOR** submits a written report to a local,
6 state, or federal agency that sends inmates or detainees to the
7 facility, the private ~~vender~~**CONTRACTOR** shall send copies of the
8 written report to the township supervisor for Webber township, the
9 board of county commissioners for Lake county, the sheriff of Lake
10 county, and the department.

11 (5) Personnel employed at the facility by the private ~~vender~~
12 **CONTRACTOR** who have met the employment and training requirements
13 set forth in the applicable standards of the American correctional
14 association have full authority to perform their duties and
15 responsibilities under law, including, but not limited to,
16 exercising the use of force in the same manner and to the same
17 extent as would be authorized if those personnel were employed in a
18 correctional facility operated by the department.

19 (6) A contract with a local, state, or federal agency that
20 sends inmates or detainees to the facility shall not require,
21 authorize, or imply a delegation of the authority or responsibility
22 to the private ~~vender~~**CONTRACTOR** to do any of the following:

23 (a) Develop or implement procedures for calculating inmate
24 release and parole eligibility dates or recommending the granting
25 or denying of parole, although the private ~~vender~~**CONTRACTOR** may
26 submit written reports that have been prepared in the ordinary
27 course of business.

1 (b) Develop or implement procedures for calculating and
2 awarding earned credits, including good time credits, disciplinary
3 credits, or similar credits affecting the length of an inmate's
4 incarceration, approving the type of work inmates may perform and
5 the wage or earned credits, if any, that may be awarded to inmates
6 engaging in that work, and granting, denying, or revoking earned
7 credits.

8 (7) An inmate or detainee shall not be housed at the facility
9 unless the security classification of the inmate or detainee, as it
10 would be determined by the department if he or she were being
11 housed in a state correctional facility, is level IV or below, and
12 has never previously been above level IV.

13 (8) Inmates and detainees shall be transferred to and from the
14 facility in a secure manner. Any inmate or detainee housed at the
15 facility who was sent from another state, a local agency outside
16 this state, or the federal government shall be returned to the
17 agency that sent the inmate or detainee upon completion of the
18 inmate's or detainee's term of incarceration in the facility and
19 shall not be released from custody within this state.

20 (9) The department of corrections is not responsible for
21 oversight of the facility. This state, or any department or agency
22 of this state, is not civilly liable for damages arising out of the
23 operation of the facility.

24 (10) As used in this section:

25 (a) "Facility" means the ~~former Michigan youth~~ correctional
26 facility described in subsection (1).

27 (b) "Security classification" means 1 of 6 levels of

1 restrictiveness enforced in housing units at each state
2 correctional facility, as determined by the department, with
3 security level I being the least restrictive and security level VI
4 being the most restrictive.

5 (c) "Serious incident" means a disturbance at the facility
6 involving 5 or more inmates or detainees, a death of an inmate or
7 detainee, a felony or attempted felony committed within the
8 facility, or an escape or attempted escape from the facility.

9 Sec. 29. Except as otherwise provided by law, all records and
10 reports of investigations made by a probation officer, and all case
11 histories of probationers shall be privileged or confidential
12 communications not open to public inspection. Judges and probation
13 officers shall have access to the records, reports, and case
14 histories. The probation officer, the assistant director of
15 probation, or the assistant director's representative shall permit
16 the attorney general, the auditor general, and law enforcement
17 agencies to have access to the records, reports, and case histories
18 and shall permit designated representatives of a private ~~vendor~~
19 **CONTRACTOR** that operates a ~~youth~~-correctional facility under
20 section 20g to have access to the records, reports, and case
21 histories pertaining to prisoners assigned to ~~the youth~~
22 ~~correctional~~-**THAT** facility. The relation of confidence between the
23 probation officer and probationer or defendant under investigation
24 shall remain inviolate.

25 Sec. 63. (1) The wardens of the correctional facilities of
26 this state shall be appointed by the director of corrections and
27 shall be within the state civil service. The assistant director in

1 charge of the bureau of correctional facilities shall, subject to
2 the approval of the director, appoint personnel within the bureau
3 as may be necessary. Members of the staff and employees of each
4 correctional facility shall be appointed by the warden subject to
5 the approval of the director.

6 (2) As used in this section, "correctional facility" does not
7 include a ~~youth~~-correctional facility ~~authorized under~~ **DESCRIBED IN**
8 section 20g if that facility is operated by a private
9 ~~vendor~~. **CONTRACTOR**.

10 Sec. 63a. (1) A person employed by the department of
11 corrections in a correctional facility who is injured as a result
12 of an assault by a prisoner housed in the correctional facility or
13 injured during a riot shall receive his or her full wages by the
14 department of corrections until worker's compensation benefits
15 begin and then shall receive in addition to worker's compensation
16 benefits a supplement from the department which together with the
17 worker's compensation benefits shall equal but not exceed the
18 weekly net wage of the employee at the time of the injury. This
19 supplement shall only apply while the person is on the department's
20 payroll and is receiving worker's compensation benefits. Fringe
21 benefits normally received by an employee shall be in effect during
22 the time the employee receives the supplement provided by this
23 section from the department.

24 (2) Subsection (1) also applies to a person who is employed by
25 the department of corrections who, while performing his or her
26 duties in a ~~youth~~-correctional facility **DESCRIBED IN SECTION 20G**,
27 is injured as a result of an assault by a prisoner housed in ~~the~~

~~youth~~ **THAT** correctional facility or is injured during a riot in the
~~youth~~ **THAT** correctional facility. However, subsection (1) does not
 apply to any person employed by, or retained under contract by, a
 private ~~vendor~~ **CONTRACTOR** that operates a ~~youth~~ correctional
 facility **DESCRIBED IN SECTION 20G.**

(3) For purposes of this section, ÷

~~(a) "Correctional facility"~~ **"CORRECTIONAL FACILITY"** means a
 facility that houses prisoners committed to the jurisdiction of the
 department, including a community corrections center.

~~—— (b) "Youth correctional facility" means a facility authorized
 under section 20g.~~

Sec. 69a. (1) A visitor to a state correctional facility shall
 not be subjected to a pat down search unless every person
 performing or assisting in performing the pat down search is of the
 same sex as the person being searched. If the necessary personnel
 are not readily available, a visitor at his or her option may ~~sign~~
WAIVE THE PROVISIONS OF THIS SUBSECTION BY SIGNING a waiver
 provided by the department of corrections. ~~, waiving the provisions
 of this subsection.~~

(2) As used in this section:

(a) "Pat down search" means a search of a person in which the
 person conducting the search touches the body or clothing, or both,
 of the person being searched to detect the presence of concealed
 objects.

(b) "State correctional facility" includes a ~~youth~~
 correctional facility operated under section 20g by the department
 or a private ~~vendor~~ **CONTRACTOR.**

1 Sec. 70. (1) A correctional facility may monitor telephone
2 communications over telephones available for use by prisoners in
3 the correctional facility if all of the following conditions are
4 met:

5 (a) The director promulgates rules under which the monitoring
6 is to be conducted, and the monitoring is conducted in accordance
7 with those rules. The rules shall include provisions for minimizing
8 the intrusiveness of the monitoring and shall prescribe a procedure
9 by which a prisoner may make telephone calls to his or her
10 attorney, and any federal, state, or local public official if
11 requested by that public official, that are not monitored.

12 (b) The monitoring is routinely conducted for the purpose of
13 preserving the security and orderly management of the correctional
14 facility, interdicting drugs and other contraband, and protecting
15 the public, and is performed by employees of the department or, in
16 the case of a ~~youth~~-correctional facility operated by a private
17 ~~vendor~~-**CONTRACTOR** under section 20g, is conducted by employees of
18 the private ~~vendor~~-**CONTRACTOR**.

19 (c) Notices are prominently posted on or near each telephone
20 subject to monitoring informing users of the telephone that
21 communications over the telephone may be monitored.

22 (d) In addition to the posting of notices under subdivision
23 (c), the prisoners in the correctional facility are given
24 reasonable notice of the rules promulgated under subdivision (a).

25 (e) Each party to the conversation is notified by voice that
26 the conversation is being monitored.

27 (2) A correctional facility shall disclose information

1 obtained ~~pursuant to~~**UNDER** this section regarding a crime or
2 attempted crime to any law enforcement agency having jurisdiction
3 over that crime or attempted crime.

4 (3) Evidence obtained ~~pursuant to~~**UNDER** this section regarding
5 a crime or attempted crime may be considered as evidence in a
6 criminal prosecution for that crime or attempted crime.

7 (4) As used in this section:

8 (a) "Correctional facility" includes a ~~youth~~ correctional
9 facility operated under section 20g by the department or a private
10 ~~vender~~**CONTRACTOR**.

11 (b) "Monitor" means to listen to or record, or both.