

HOUSE BILL No. 4074

January 13, 2011, Introduced by Reps. O'Brien, Outman, Shaughnessy, McMillin, Genetski, Kowall, Shirkey, Lori, Daley, Damrow and Lund 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 section 34b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 34B. (1) THE DEPARTMENT, BY CONTRACT OR OTHERWISE, SHALL
2 ASSIST PRISONERS WITH REENTRY INTO THE COMMUNITY, INCLUDING, BUT
3 NOT LIMITED TO, BOTH OF THE FOLLOWING:

4 (A) THE DEPARTMENT SHALL ASSIST PRISONERS IN OBTAINING THE
5 IDENTIFICATION DOCUMENTS DESCRIBED IN THIS SECTION.

6 (B) SUBJECT TO THE DEPARTMENT'S SECURITY NEEDS, THE DEPARTMENT

1 SHALL REASONABLY ALLOW PRISONERS TO OBTAIN THE FOLLOWING
2 IDENTIFICATION DOCUMENTS BEFORE THOSE PRISONERS ARE RELEASED ON
3 PAROLE OR DISCHARGED UPON COMPLETION OF THEIR MAXIMUM SENTENCES:

4 (i) ANY OF THE IDENTIFICATION DOCUMENTS THAT, IN COMBINATION
5 WITH THE PRISONER IDENTIFICATION CARD ISSUED UNDER SECTION 37(4),
6 WOULD SATISFY THE APPLICATION REQUIREMENTS FOR OBTAINING AN
7 OPERATOR'S LICENSE OR STATE PERSONAL IDENTIFICATION CARD AS
8 ESTABLISHED BY THE SECRETARY OF STATE UNDER SECTION 307 OF THE
9 MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.307, OR SECTION 1 OF
10 1972 PA 222, MCL 28.291.

11 (ii) A SOCIAL SECURITY CARD.

12 (2) A PRISONER'S ATTEMPT OR FAILURE TO ATTEMPT TO OBTAIN THE
13 DOCUMENTS IDENTIFIED IN SUBSECTION (1)(B) IS A FACTOR THAT IS TO BE
14 CONSIDERED AS PART OF THE PRISONER'S PAROLE ELIGIBILITY REPORT, AS
15 PROVIDED IN SECTION 35(7)(E).

16 (3) THIS SECTION APPLIES TO ALL PRISONERS SERVING A SENTENCE
17 UNDER THE JURISDICTION OF THE DEPARTMENT AFTER THE EFFECTIVE DATE
18 OF THE AMENDATORY ACT THAT ADDED THIS SECTION.

19 (4) THE DEPARTMENT SHALL PROVIDE TO EACH PRISONER A COPY OF
20 THE FORM DESCRIBED IN SECTION 14(8)(B) OF CHAPTER XI OF THE CODE OF
21 CRIMINAL PROCEDURE, 1927 PA 175, MCL 771.14, LISTING THE PERSONAL
22 IDENTIFICATION DOCUMENTS REFERENCED IN SUBSECTION (1). FOR A
23 PRISONER WHO BEGINS SERVING A SENTENCE UNDER THE JURISDICTION OF
24 THE DEPARTMENT AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
25 ADDED THIS SECTION, THE DEPARTMENT SHALL PROVIDE THE FORM NOT LATER
26 THAN 10 DAYS AFTER THE PRISONER ARRIVES AT A RECEPTION CENTER UNDER
27 SECTION 67(1). FOR ANY PRISONER WHO IS UNDER THE JURISDICTION OF

1 THE DEPARTMENT ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
2 ADDED THIS SECTION, THE DEPARTMENT SHALL PROVIDE THE FORM NOT LATER
3 THAN 30 DAYS AFTER THAT EFFECTIVE DATE.

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

8 (6) THE REENTRY SUCCESS FUND IS CREATED WITHIN THE STATE
9 TREASURY. THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS
10 FROM ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER
11 SHALL DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL
12 CREDIT TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.
13 MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL REMAIN IN
14 THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND. THE DEPARTMENT OF
15 CORRECTIONS SHALL EXPEND MONEY FROM THE REENTRY SUCCESS FUND, UPON
16 APPROPRIATION, ONLY FOR THE EXPENSES OF PERFORMING THE ACTIVITIES
17 REQUIRED BY THIS SECTION.

18 Sec. 35. (1) The release of a prisoner on parole shall be
19 granted solely upon the initiative of the parole board. The parole
20 board may grant a parole without interviewing the prisoner.
21 However, beginning ~~on the date on which the administrative rules~~
22 ~~prescribing parole guidelines pursuant to section 33e(5) take~~
23 ~~effect~~ **JANUARY 26, 1996**, the parole board may grant a parole
24 without interviewing the prisoner only if, after evaluating the
25 prisoner according to the parole guidelines, the parole board
26 determines that the prisoner has a high probability of being
27 paroled and the parole board therefore intends to parole the

1 prisoner. Except as provided in subsection (2), a prisoner shall
2 not be denied parole without an interview before 1 member of the
3 parole board. The interview shall be conducted at least 1 month
4 before the expiration of the prisoner's minimum sentence less
5 applicable good time and disciplinary credits for a prisoner
6 eligible for good time and disciplinary credits, or at least 1
7 month before the expiration of the prisoner's minimum sentence for
8 a prisoner subject to disciplinary time. The parole board shall
9 consider any statement made to the parole board by a crime victim
10 under the **WILLIAM VAN REGENMORTER** crime victim's rights act, 1985
11 PA 87, MCL 780.751 to 780.834, or under any other provision of law.
12 The parole board shall not consider any of the following factors in
13 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 intent
19 to conduct an interview as provided in subsection (4). This
20 subdivision applies only to presentence investigation reports
21 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 section~~
24 ~~33e(5)~~ **JANUARY 26, 1996**, if, after evaluating a prisoner according
25 to the parole guidelines, the parole board determines that the
26 prisoner has a low probability of being paroled and the parole
27 board therefore does not intend to parole the prisoner, the parole

1 board ~~shall~~ **IS** not ~~be~~ required to interview the prisoner before
2 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 denial
13 of parole shall not be based on reasons other than those stated in
14 the notice of intent to conduct an interview except for good cause
15 stated to the prisoner at or before the interview and in the
16 written explanation required by subsection (12). This subsection
17 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. Before
21 the interview, the parole board member who is to conduct the
22 interview shall review pertinent information relative to the notice
23 of intent to conduct an interview.

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

1 the interview held pursuant to a notice of intent to conduct an
2 interview, the prisoner may be represented by an individual of his
3 or her choice. The representative shall not be another prisoner or
4 an attorney. A prisoner is not entitled to appointed counsel at
5 public expense. The prisoner or representative may present relevant
6 evidence in support of release. ~~This subsection does not apply~~
7 ~~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 credits
10 for a prisoner eligible for good time or disciplinary credits, or
11 at least 90 days before the expiration of the prisoner's minimum
12 sentence for a prisoner subject to disciplinary time, or the
13 expiration of a 12-month continuance for any prisoner, a parole
14 eligibility report shall be prepared by appropriate institutional
15 staff. The parole eligibility report shall be considered pertinent
16 information for purposes of subsection (5). The report shall
17 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 confined.

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

24 (d) Whether the prisoner fully cooperated with the state by
25 providing complete financial information as required under section
26 3a of the state correctional facility reimbursement act, 1935 PA
27 253, MCL 800.403a.

1 **(E) WHETHER THE PRISONER ATTEMPTED TO OBTAIN IDENTIFICATION**
2 **DOCUMENTS UNDER SECTION 34B, IF APPLICABLE.**

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~~ **UNDER** section 34 of 1893 PA 118, MCL
6 800.34.

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

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

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

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

1 granted by the court. As used in this subsection, "person requiring
2 treatment" means that term as defined in section 401 of the mental
3 health code, 1974 PA 258, MCL 330.1401.

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

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

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

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

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

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

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

7 (3) When providing for transportation, the department shall DO
8 ALL OF THE FOLLOWING:

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

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

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

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

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 NAME AS IDENTIFIED ON THE PRISONER'S BIRTH
23 CERTIFICATE OR ON ANY 1 OF THE OTHER IDENTIFICATION DOCUMENTS
24 SPECIFIED BY THE SECRETARY OF STATE AS BEING NECESSARY TO OBTAIN AN
25 OPERATOR'S LICENSE OR STATE PERSONAL IDENTIFICATION CARD, IF THOSE
26 DOCUMENTS ARE AVAILABLE; OR THE PRISONER'S NAME LISTED ON HIS OR
27 HER COMMITMENT PAPERS.

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

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

4 (E) A STATEMENT AS TO WHETHER THE PRISONER WAS PLACED ON
5 PAROLE OR DISCHARGED UPON COMPLETION OF HIS OR HER SENTENCE.

6 (5) ~~(4)~~—The cost of implementing this section shall be paid
7 out of the general fund of the state.

8 Sec. 67. (1) Quarters for temporary confinement apart from
9 those of regular inmates shall be provided for convicted prisoners
10 upon commitment at each of the state correctional facilities, which
11 the director shall designate as a reception center. Within 60 days
12 after the arrival of a convicted prisoner at ~~such~~ a state
13 correctional facility, the classification committee shall make and
14 complete a comprehensive study of the prisoner, including physical
15 and psychiatric examinations, to ensure that the prisoner is
16 confined in the state correctional facility suited to the type of
17 rehabilitation required in his or her case. The warden of the state
18 correctional facility shall deliver a report of the study of the
19 classification committee to the deputy director of the correctional
20 facilities administration, who shall, within 5 days after receipt
21 of the report, execute an order to confine the prisoner in the
22 state correctional facility determined as suitable by the deputy
23 director.

24 (2) Immediately upon arrival at a reception center designated
25 ~~pursuant to~~ **UNDER** subsection (1), each incoming prisoner shall
26 undergo a test for HIV or an antibody to HIV. This subsection does
27 not apply if an incoming prisoner has been tested for HIV or an

1 antibody to HIV under section 5129 of the public health code, ~~Act~~
2 ~~No. 368 of the Public Acts of 1978, being section 333.5129 of the~~
3 ~~Michigan Compiled Laws 1978 PA 368, MCL 333.5129~~, within the 3
4 months immediately preceding the date of the prisoner's arrival at
5 the reception center, as indicated by the record transferred to the
6 department by the court under that section.

7 (3) If a prisoner receives a positive test result and is
8 subsequently subject to discipline by the department for sexual
9 misconduct that could transmit HIV, illegal intravenous use of
10 controlled substances, or assaultive or predatory behavior that
11 could transmit HIV, the department shall house that prisoner in
12 administrative segregation, an inpatient health care unit, or a
13 unit separate from the general prisoner population, as determined
14 by the department.

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

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

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

27 (7) Upon the request of an employee of the department, the

1 department shall provide to that employee the equipment necessary
2 to implement universal precautions to prevent transmission of HIV
3 infection.

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

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

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

13 (11) The deputy director of the correctional facilities
14 administration shall take steps to ensure that all prisoners who
15 receive HIV testing receive counseling regarding AIDS including, at
16 a minimum, treatment, transmission, and protective measures.

17 (12) The department, in conjunction with the department of
18 community health, shall develop and implement a comprehensive AIDS
19 education program designed specifically for correctional
20 environments. The program shall be conducted by the bureau within
21 the department responsible for health care, for staff and for
22 prisoners at each state correctional facility.

23 ~~— (13) By March 30, 1991, the department shall submit a report~~
24 ~~regarding the testing component, managerial aspects, and~~
25 ~~effectiveness of subsections (2) to (12) to the senate and house~~
26 ~~committees with jurisdiction over matters pertaining to~~
27 ~~corrections, and to the senate and house committees with~~

1 ~~jurisdiction over matters pertaining to public health.~~

2 (13) ~~(14)~~ As used in this section:

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

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

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

10 Enacting section 1. This amendatory act does not take effect
11 unless all of the following bills of the 96th Legislature are
12 enacted into law:

13 (a) Senate Bill No. ____ or House Bill No. 4075 (request no.
14 00525'11 a *).

15 (b) Senate Bill No. ____ or House Bill No. 4076 (request no.
16 00525'11 b *).

17 (c) Senate Bill No. ____ or House Bill No. 4077 (request no.
18 00525'11 c *).