

# HOUSE BILL No. 4809

June 6, 2013, Introduced by Reps. Haveman, MacMaster, Walsh, Heise, Schmidt, Shirkey, Pscholka, Pettalia, Howrylak, Potvin, Robinson, Kesto, O'Brien, Cavanagh, Tlaib, Irwin, Lipton, Lori, Price, Haines, Victory, Kandreas, Foster, Lyons and Jacobsen and referred to the Committee on Criminal Justice.

A bill to amend 1953 PA 232, entitled "Corrections code of 1953," by amending sections 34, 34c, 35, and 44 (MCL 791.234, 791.234c, 791.235, and 791.244), section 34 as amended by 2010 PA 353, section 34c as added and section 35 as amended by 2012 PA 24, and section 44 as amended by 1999 PA 191.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 34. (1) Except as provided in section 34a, a prisoner  
2 sentenced to an indeterminate sentence and confined in a state  
3 correctional facility with a minimum in terms of years other than a  
4 prisoner subject to disciplinary time is subject to the  
5 jurisdiction of the parole board when the prisoner has served a  
6 period of time equal to the minimum sentence imposed by the court  
7 for the crime of which he or she was convicted, less good time and

1 disciplinary credits, if applicable.

2 (2) Except as provided in section 34a **AND SUBJECT TO**  
3 **SUBSECTION (7)**, a prisoner subject to disciplinary time sentenced  
4 to an indeterminate sentence and confined in a state correctional  
5 facility with a minimum in terms of years is subject to the  
6 jurisdiction of the parole board when the prisoner has served a  
7 period of time equal to the minimum sentence imposed by the court  
8 for the crime of which he or she was convicted.

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

21 (4) ~~IF~~ **SUBJECT TO SUBSECTION (7)**, **IF** a prisoner subject to  
22 disciplinary time is sentenced for consecutive terms, whether  
23 received at the same time or at any time during the life of the  
24 original sentence, the parole board has jurisdiction over the  
25 prisoner for purposes of parole when the prisoner has served the  
26 total time of the added minimum terms. The maximum terms of the  
27 sentences shall be added to compute the new maximum term under this

1 subsection, and discharge shall be issued only after the total of  
2 the maximum sentences has been served, unless the prisoner is  
3 paroled and discharged upon satisfactory completion of the parole.

4 (5) ~~IF SUBJECT TO SUBSECTION (7), IF~~ a prisoner other than a  
5 prisoner subject to disciplinary time has 1 or more consecutive  
6 terms remaining to serve in addition to the term he or she is  
7 serving, the parole board may terminate the sentence the prisoner  
8 is presently serving at any time after the minimum term of the  
9 sentence has been served.

10 (6) ~~A SUBJECT TO SUBSECTION (7) (D), A~~ prisoner sentenced to  
11 imprisonment for life for any of the following is not eligible for  
12 parole and is instead subject to the provisions of section 44:

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

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

17 (c) A violation of chapter XXXIII of the Michigan penal code,  
18 1931 PA 328, MCL 750.200 to 750.212a.

19 (d) A violation of section 17764(7) of the public health code,  
20 1978 PA 368, MCL 333.17764.

21 (e) First degree criminal sexual conduct in violation of  
22 section 520b(2)(c) of the Michigan penal code, 1931 PA 328, MCL  
23 750.520b.

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

26 (7) A prisoner sentenced to imprisonment for life, other than  
27 a prisoner described in subsection (6), is subject to the

1 jurisdiction of the parole board ~~may be placed on parole according~~  
2 ~~to the conditions prescribed in subsection (8)~~ **SHALL BE CONSIDERED**  
3 **FOR PAROLE ACCORDING TO THE SAME CRITERIA AND UTILIZING THE SAME**  
4 **ASSESSMENT TOOLS THAT ARE APPLIED TO ALL PRISONERS BEING CONSIDERED**  
5 **FOR PAROLE. A PRISONER SENTENCED TO IMPRISONMENT FOR LIFE MAY BE**  
6 **PLACED ON PAROLE** if he or she meets any of the following criteria:

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

11 (b) Except as provided in subsection (12), the prisoner has  
12 served 20 calendar years of a sentence for violating, or attempting  
13 or conspiring to violate, section 7401(2)(a)(i) of the public health  
14 code, 1978 PA 368, MCL 333.7401, and has another conviction for a  
15 serious crime.

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

21 **(D) IF THE PRISONER WAS SENTENCED TO IMPRISONMENT FOR LIFE**  
22 **WITH THE POSSIBILITY OF PAROLE UNDER SECTION 33 OF CHAPTER IX OF**  
23 **THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL 769.33, THE PAROLE**  
24 **BOARD HAS JURISDICTION OVER THE PRISONER AFTER HE OR SHE HAS SERVED**  
25 **15 YEARS OF HIS OR HER TERM OF IMPRISONMENT, INCLUDING ANY TIME**  
26 **SERVED AS PART OF HIS OR HER ORIGINAL SENTENCE.**

27 (8) A parole granted to a prisoner under subsection (7) is

1 subject to the following conditions:

2 ~~(a) At the conclusion of 10 calendar years of the prisoner's~~  
3 ~~sentence and thereafter as determined by the parole board until the~~  
4 ~~prisoner is paroled, discharged, or deceased, and in accordance~~  
5 ~~with the procedures described in subsection (9), 1 member of the~~  
6 ~~parole board shall interview the prisoner. ONE MEMBER OF THE PAROLE~~  
7 ~~BOARD SHALL INTERVIEW THE PRISONER WHEN HE OR SHE INITIALLY BECOMES~~  
8 ~~ELIGIBLE FOR PAROLE AND EVERY 2 YEARS THEREAFTER UNTIL THE PRISONER~~  
9 ~~IS PAROLED, DISCHARGED, OR DECEASED. THE MEMBER OF THE PAROLE BOARD~~  
10 ~~MAY CONDUCT THE INTERVIEW USING A 2-WAY INTERACTIVE VIDEO~~  
11 ~~TECHNOLOGY SYSTEM IF THAT SYSTEM ALLOWS THE MEMBER OF THE PAROLE~~  
12 ~~BOARD AND THE PRISONER TO SEE, HEAR, AND COMMUNICATE WITH EACH~~  
13 ~~OTHER SIMULTANEOUSLY.~~ The interview schedule prescribed in this  
14 subdivision applies to all prisoners to whom subsection (7)  
15 applies, regardless of the date on which they were sentenced.

16 ~~(b) In addition to the interview schedule prescribed in~~  
17 ~~subdivision (a), the parole board shall review the prisoner's file~~  
18 ~~at the conclusion of 15 calendar years of the prisoner's sentence~~  
19 ~~and every 5 years thereafter until the prisoner is paroled,~~  
20 ~~discharged, or deceased. A prisoner whose file is to be reviewed~~  
21 ~~under this subdivision shall be notified of the upcoming file~~  
22 ~~review at least 30 days before the file review takes place and~~  
23 ~~shall be allowed to submit written statements or documentary~~  
24 ~~evidence for the parole board's consideration in conducting the~~  
25 ~~file review. A DECISION NOT TO PROCEED TO PUBLIC HEARING CONSTITUTES~~  
26 ~~A DECISION TO DENY PAROLE.~~

27 (c) A decision to grant or deny parole to the prisoner shall

1 not be made until after a public hearing held in the manner  
2 prescribed for pardons and commutations in sections 44 and 45.  
3 Notice of the public hearing shall be given to the sentencing  
4 judge, ~~or the judge's successor in office,~~ and parole shall not be  
5 granted if the sentencing judge, or the judge's successor in  
6 office, files written objections to the granting of the parole  
7 within 30 days ~~of receipt of~~ **AFTER RECEIVING** the notice of hearing.  
8 **IF A SUCCESSOR JUDGE FILES WRITTEN OBJECTIONS, THOSE OBJECTIONS**  
9 **SHALL BE CONSIDERED BUT DO NOT PREVENT THE GRANTING OF PAROLE, AND**  
10 **THE PAROLE BOARD SHALL RETAIN JURISDICTION REGARDLESS OF THOSE**  
11 **WRITTEN OBJECTIONS.** The written objections shall be made part of  
12 the prisoner's file.

13 (d) A parole granted under subsection (7) shall be for a  
14 period of not less than 4 years and subject to the usual rules  
15 pertaining to paroles granted by the parole board. A parole granted  
16 under subsection (7) is not valid until the transcript of the  
17 record is filed with the attorney general whose certification of  
18 receipt of the transcript shall be returnable to the office of the  
19 parole board within 5 days. Except for medical records protected  
20 under section 2157 of the revised judicature act of 1961, 1961 PA  
21 236, MCL 600.2157, the file of a prisoner granted a parole under  
22 subsection (7) is a public record.

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

25 (a) The prisoner shall be given written notice, not less than  
26 30 days before the interview date, stating that the interview will  
27 be conducted.

1           (b) The prisoner may be represented at the interview by an  
2 individual of his or her choice. The representative shall not be  
3 another prisoner. A prisoner is not entitled to appointed counsel  
4 at public expense. The prisoner or representative may present  
5 relevant evidence in favor of holding a public hearing as allowed  
6 in subsection (8) (b).

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

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

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

17           (c) Any of the following:

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

25           (ii) Whether the individual was a principal administrator,  
26 organizer, or leader of an entity that the individual knew or had  
27 reason to know committed violations of section 7401 or 7403 of the

1 public health code, 1978 PA 368, MCL 333.7401 and 333.7403, and  
2 whether the violation for which the individual was convicted was  
3 committed to further the interests of that entity.

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

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

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

17 (12) If the sentencing judge, or his or her successor in  
18 office, determines on the record that a prisoner described in  
19 subsection (7) (b) or (c) sentenced to imprisonment for life for  
20 violating, or attempting or conspiring to violate, section  
21 7401(2) (a) (i) of the public health code, 1978 PA 368, MCL 333.7401,  
22 has cooperated with law enforcement, the prisoner is subject to the  
23 jurisdiction of the parole board and may be released on parole as  
24 provided in subsection (7) (b) or (c) 2-1/2 years earlier than the  
25 time otherwise indicated in subsection (7) (b) or (c). The prisoner  
26 is considered to have cooperated with law enforcement if the court  
27 determines on the record that the prisoner had no relevant or

1 useful information to provide. The court shall not make a  
2 determination that the prisoner failed or refused to cooperate with  
3 law enforcement on grounds that the defendant exercised his or her  
4 constitutional right to trial by jury. If the court determines at  
5 sentencing that the defendant cooperated with law enforcement, the  
6 court shall include its determination in the judgment of sentence.

7 (13) Notwithstanding subsections (1) and (2), an individual  
8 convicted of violating, or attempting or conspiring to violate,  
9 section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code,  
10 1978 PA 368, MCL 333.7401 and 333.7403, whose offense occurred  
11 before March 1, 2003, and who was sentenced to a term of years, is  
12 eligible for parole after serving 20 years of the sentence imposed  
13 for the violation if the individual has another serious crime or  
14 17-1/2 years of the sentence if the individual does not have  
15 another conviction for a serious crime, or after serving the  
16 minimum sentence imposed for that violation, whichever is less.

17 (14) Notwithstanding subsections (1) and (2), an individual  
18 who was convicted of violating, or attempting or conspiring to  
19 violate, section 7401(2)(a)(ii) or 7403(2)(a)(ii) of the public  
20 health code, 1978 PA 368, MCL 333.7401 and 333.7403, whose offense  
21 occurred before March 1, 2003, and who was sentenced according to  
22 those sections as they existed before March 1, 2003, is eligible  
23 for parole after serving the minimum of each sentence imposed for  
24 that violation or 10 years of each sentence imposed for that  
25 violation, whichever is less.

26 (15) Notwithstanding subsections (1) and (2), an individual  
27 who was convicted of violating, or attempting or conspiring to

1 violate, section 7401(2)(a)(iii) or 7403(2)(a)(iii) of the public  
2 health code, 1978 PA 368, MCL 333.7401 and 333.7403, whose offense  
3 occurred before March 1, 2003, and who was sentenced according to  
4 those sections as they existed before March 1, 2003, is eligible  
5 for parole after serving the minimum of each sentence imposed for  
6 that violation or 5 years of each sentence imposed for that  
7 violation, whichever is less.

8 (16) Notwithstanding subsections (1) and (2), an individual  
9 who was convicted of violating, or attempting or conspiring to  
10 violate, section 7401(2)(a)(iv) or 7403(2)(a)(iv) of the public  
11 health code, 1978 PA 368, MCL 333.7401 and 333.7403, whose offense  
12 occurred before March 1, 2003, who was sentenced according to those  
13 sections of law as they existed before March 1, 2003 to consecutive  
14 terms of imprisonment for 2 or more violations of section  
15 7401(2)(a) or 7403(2)(a), is eligible for parole after serving 1/2  
16 of the minimum sentence imposed for each violation of section  
17 7401(2)(a)(iv) or 7403(2)(a)(iv). This subsection applies only to  
18 sentences imposed for violations of section 7401(2)(a)(iv) or  
19 7403(2)(a)(iv) and does not apply if the sentence was imposed for a  
20 conviction for a new offense committed while the individual was on  
21 probation or parole.

22 (17) The parole board shall provide notice to the prosecuting  
23 attorney of the county in which the individual was convicted before  
24 granting parole to the individual under subsection (13), (14),  
25 (15), or (16).

26 (18) As used in this section:

27 (a) "Serious crime" means violating or conspiring to violate

1 article 7 of the public health code, 1978 PA 368, MCL 333.7101 to  
2 333.7545, that is punishable by imprisonment for more than 4 years,  
3 or an offense against a person in violation of section 83, 84, 86,  
4 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d,  
5 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA 328,  
6 MCL 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.316,  
7 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b,  
8 750.520c, 750.520d, 750.520g, 750.529, 750.529a, and 750.530.

9 (b) "State correctional facility" means a facility that houses  
10 prisoners committed to the jurisdiction of the department.

11 Sec. 34c. (1) The department, by contract or otherwise, shall  
12 assist prisoners with reentry into the community, including, but  
13 not limited to, doing both of the following:

14 (a) Assisting prisoners in obtaining the identification  
15 documents described in this section.

16 (b) Subject to the department's security needs, reasonably  
17 allowing prisoners to obtain the following identification documents  
18 before those prisoners are released on parole or discharged upon  
19 completion of their maximum sentences:

20 (i) Any of the identification documents that, in combination  
21 with the prisoner identification card issued under section 37(4),  
22 would satisfy the application requirements for obtaining an  
23 operator's license or state personal identification card as  
24 established by the secretary of state under section 307 of the  
25 Michigan vehicle code, 1949 PA 300, MCL 257.307, or section 1 of  
26 1972 PA 222, MCL 28.291.

27 (ii) A social security card or social security number

1 verification, if possible to obtain.

2 (2) A prisoner's refusal to obtain or attempt to obtain the  
3 documents identified in subsection (1)(b) may be included as part  
4 of the prisoner's parole eligibility report, as provided in section  
5 ~~35(7)(e)~~. **35(8)(E)**.

6 (3) This section applies to all prisoners who are serving a  
7 sentence under the jurisdiction of the department after the  
8 effective date of the amendatory act that added this section who  
9 are eligible to obtain an operator's license under section 307 of  
10 the Michigan vehicle code, 1949 PA 300, MCL 257.307, or a state  
11 personal identification card under section 1 of 1972 PA 222, MCL  
12 28.291.

13 (4) The department shall include in writing to each prisoner  
14 the information described in section 14(9)(b) of chapter XI of the  
15 code of criminal procedure, 1927 PA 175, MCL 771.14, listing the  
16 identification documents referenced in subsection (1). For a  
17 prisoner who begins serving a sentence under the jurisdiction of  
18 the department after the effective date of the amendatory act that  
19 added this section, the department shall provide that written  
20 information during reception center processing. For any prisoner  
21 who is under the jurisdiction of the department on the effective  
22 date of the amendatory act that added this section, the department  
23 shall provide that written information as follows:

24 (a) For a prisoner with less than 1 year remaining before  
25 parole eligibility, within 90 days after that effective date.

26 (b) For any other prisoner, the information shall be given at  
27 the time the parole eligibility report is prepared.

1           (5) The department shall allow the secretary of state to have  
2 electronic access to prisoner information for the purpose of  
3 verifying the identity of prisoners who apply for driver licenses  
4 or state personal identification cards.

5           (6) The reentry success fund is created within the state  
6 treasury. The state treasurer may receive money or other assets  
7 from any source for deposit into the fund. The state treasurer  
8 shall direct the investment of the fund. The state treasurer shall  
9 credit to the fund interest and earnings from fund investments.  
10 Money in the fund at the close of the fiscal year shall remain in  
11 the fund and shall not lapse to the general fund. The department of  
12 corrections shall expend money from the reentry success fund, upon  
13 appropriation, only for the expenses of performing the activities  
14 required by this section.

15           Sec. 35. (1) The release of a prisoner on parole shall be  
16 granted solely upon the initiative of the parole board. The parole  
17 board may grant a parole without interviewing the prisoner.  
18 However, beginning January 26, 1996, the parole board may grant a  
19 parole without interviewing the prisoner only if, after evaluating  
20 the prisoner according to the parole guidelines, the parole board  
21 determines that the prisoner has a high probability of being  
22 paroled and the parole board therefore intends to parole the  
23 prisoner. Except as provided in subsection (2), a prisoner shall  
24 not be denied parole without an interview before 1 member of the  
25 parole board. The interview shall be conducted at least 1 month  
26 before the expiration of the prisoner's minimum sentence less  
27 applicable good time and disciplinary credits for a prisoner

1 eligible for good time and disciplinary credits, or at least 1  
2 month before the expiration of the prisoner's minimum sentence for  
3 a prisoner subject to disciplinary time. The parole board shall  
4 consider any statement made to the parole board by a crime victim  
5 under the William Van Regenmorter crime victim's rights act, 1985  
6 PA 87, MCL 780.751 to 780.834, or under any other provision of law.  
7 The parole board shall not consider any of the following factors in  
8 making a parole determination:

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

11 (b) Information that is determined by the parole board to be  
12 inaccurate or irrelevant after a challenge and presentation of  
13 relevant evidence by a prisoner who has received a notice of intent  
14 to conduct an interview as provided in subsection ~~(4)~~-(5). This  
15 subdivision applies only to presentence investigation reports  
16 prepared before April 1, 1983.

17 (2) ~~Beginning January 26, 1996, if, IF,~~ after evaluating a  
18 prisoner according to the parole guidelines, the parole board  
19 determines that the prisoner has a low probability of being paroled  
20 and the parole board therefore does not intend to parole the  
21 prisoner, the parole board is not required to interview the  
22 prisoner before denying parole to the prisoner.

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

25 (a) A prisoner's marital history.

26 (b) Prior arrests not resulting in conviction or adjudication  
27 of delinquency.

1           (4) THE PAROLE BOARD SHALL CONSIDER THE FOLLOWING FACTORS IN  
2 DECIDING WHETHER TO GRANT OR DENY PAROLE TO ANY PRISONER WHO WAS  
3 UNDER 18 YEARS OF AGE AT THE TIME HE OR SHE COMMITTED THE OFFENSE  
4 FOR WHICH HE OR SHE IS IMPRISONED:

5           (A) HIS OR HER CHARACTER AND CRIMINAL AND INSTITUTIONAL  
6 RECORDS.

7           (B) THE CIRCUMSTANCES OF THE OFFENSE, INCLUDING THE EXTENT OF  
8 HIS OR HER PARTICIPATION IN THE OFFENSE AND WHETHER FAMILIAL OR  
9 PEER PRESSURE MAY HAVE BEEN A FACTOR IN COMMITTING THE OFFENSE.

10          (C) HIS OR HER AGE AT THE TIME OF THE OFFENSE.

11          (D) HIS OR HER BACKGROUND AND MENTAL AND EMOTIONAL DEVELOPMENT  
12 AT THE TIME OF THE OFFENSE.

13          (E) HIS OR HER FAMILY AND HOME ENVIRONMENT AT THE TIME OF THE  
14 OFFENSE.

15          (F) WHETHER HE OR SHE COULD HAVE BEEN CHARGED AND CONVICTED OF  
16 A LESSER OFFENSE IF NOT FOR INCOMPETENCY ASSOCIATED WITH YOUTH.

17          (G) HIS OR HER POTENTIAL FOR REHABILITATION.

18          (5) ~~(4)~~—If an interview is to be conducted, the prisoner shall  
19 be sent a notice of intent to conduct an interview at least 1 month  
20 before the date of the interview. The notice shall state the  
21 specific issues and concerns that shall be discussed at the  
22 interview and that may be a basis for a denial of parole. A denial  
23 of parole shall not be based on reasons other than those stated in  
24 the notice of intent to conduct an interview except for good cause  
25 stated to the prisoner at or before the interview and in the  
26 written explanation required by subsection ~~(12)~~—(13). This  
27 subsection does not apply until April 1, 1983.

1           (6) ~~(5)~~—Except for good cause, the parole board member  
2 conducting the interview shall not have cast a vote for or against  
3 the prisoner's release before conducting the current interview.  
4 Before the interview, the parole board member who is to conduct the  
5 interview shall review pertinent information relative to the notice  
6 of intent to conduct an interview.

7           (7) ~~(6)~~—A prisoner may waive the right to an interview by 1  
8 member of the parole board. The waiver of the right to be  
9 interviewed shall be given not more than 30 days after the notice  
10 of intent to conduct an interview is issued and shall be made in  
11 writing. During the interview held pursuant to a notice of intent  
12 to conduct an interview, the prisoner may be represented by an  
13 individual of his or her choice. The representative shall not be  
14 another prisoner or an attorney. A prisoner is not entitled to  
15 appointed counsel at public expense. The prisoner or representative  
16 may present relevant evidence in support of release.

17           (8) ~~(7)~~—At least 90 days before the expiration of the  
18 prisoner's minimum sentence less applicable good time and  
19 disciplinary credits for a prisoner eligible for good time or  
20 disciplinary credits, or at least 90 days before the expiration of  
21 the prisoner's minimum sentence for a prisoner subject to  
22 disciplinary time, or the expiration of a 12-month continuance for  
23 any prisoner, a parole eligibility report shall be prepared by  
24 appropriate institutional staff. The parole eligibility report  
25 shall be considered pertinent information for purposes of  
26 subsection ~~(5)~~—(6). The report shall include all of the following:

27           (a) A statement of all major misconduct charges of which the

1 prisoner was found guilty and the punishment served for the  
2 misconduct.

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

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

6 (d) Whether the prisoner fully cooperated with the state by  
7 providing complete financial information as required under section  
8 3a of the state correctional facility reimbursement act, 1935 PA  
9 253, MCL 800.403a.

10 (e) Whether the prisoner refused to attempt to obtain  
11 identification documents under section 34c, if applicable.

12 (f) For a prisoner subject to disciplinary time, a statement  
13 of all disciplinary time submitted for the parole board's  
14 consideration under section 34 of 1893 PA 118, MCL 800.34.

15 (9) ~~(8)~~—The preparer of the report shall not include a  
16 recommendation as to release on parole.

17 (10) ~~(9)~~—Psychological evaluations performed at the request of  
18 the parole board to assist it in reaching a decision on the release  
19 of a prisoner may be performed by the same person who provided the  
20 prisoner with therapeutic treatment, unless a different person is  
21 requested by the prisoner or parole board.

22 (11) ~~(10)~~—The parole board may grant a medical parole for a  
23 prisoner determined to be physically or mentally incapacitated. A  
24 decision to grant a medical parole shall be initiated upon the  
25 recommendation of the bureau of health care services and shall be  
26 reached only after a review of the medical, institutional, and  
27 criminal records of the prisoner.

1           (12) ~~(11)~~—The department shall submit a petition to the  
2 appropriate court under section 434 of the mental health code, 1974  
3 PA 258, MCL 330.1434, for any prisoner being paroled or being  
4 released after serving his or her maximum sentence whom the  
5 department considers to be a person requiring treatment. The parole  
6 board shall require mental health treatment as a special condition  
7 of parole for any parolee whom the department has determined to be  
8 a person requiring treatment whether or not the petition filed for  
9 that prisoner is granted by the court. As used in this subsection,  
10 "person requiring treatment" means that term as defined in section  
11 401 of the mental health code, 1974 PA 258, MCL 330.1401.

12           (13) ~~(12)~~—When the parole board makes a final determination  
13 not to release a prisoner, the prisoner shall be provided with a  
14 written explanation of the reason for denial and, if appropriate,  
15 specific recommendations for corrective action the prisoner may  
16 take to facilitate release.

17           (14) ~~(13)~~—This section does not apply to the placement on  
18 parole of a person in conjunction with special alternative  
19 incarceration under section 34a(7).

20           Sec. 44. (1) Subject to the constitutional authority of the  
21 governor to grant reprieves, commutations, and pardons, 1 member of  
22 the parole board shall interview a prisoner serving a sentence for  
23 murder in the first degree or a sentence of imprisonment for life  
24 without parole at the conclusion of 10 calendar years and  
25 thereafter as determined appropriate by the parole board, until  
26 such time as the prisoner is granted a reprieve, commutation, or  
27 pardon by the governor, or is deceased. **THE MEMBER OF THE PAROLE**

1 **BOARD MAY CONDUCT THE INTERVIEW USING A 2-WAY INTERACTIVE VIDEO**  
2 **TECHNOLOGY SYSTEM IF THAT SYSTEM ALLOWS THE MEMBER OF THE PAROLE**  
3 **BOARD AND THE PRISONER TO SEE, HEAR, AND COMMUNICATE WITH EACH**  
4 **OTHER SIMULTANEOUSLY.** The interview schedule prescribed in this  
5 subsection applies to all prisoners to whom this section is  
6 applicable, regardless of when they were sentenced.

7 (2) Upon its own initiation of, or upon ~~receipt of any~~  
8 **RECEIVING AN** application for, a reprieve, commutation, or pardon,  
9 the parole board shall do all of the following, as applicable:

10 (a) Not more than 60 days after ~~receipt of~~ **RECEIVING** an  
11 application, conduct a review to determine whether the application  
12 for a reprieve, commutation, or pardon has merit.

13 (b) Deliver either the written documentation of the initiation  
14 or the original application with the parole board's determination  
15 regarding merit, to the governor and retain a copy of each in its  
16 file, pending an investigation and hearing.

17 (c) Within 10 days after initiation, or after determining that  
18 an application has merit, forward to the sentencing judge and to  
19 the prosecuting attorney of the county having original jurisdiction  
20 of the case, or their successors in office, a written notice of the  
21 filing of the application or initiation, together with copies of  
22 the application or initiation, any supporting affidavits, and a  
23 brief summary of the case. Within 30 days after ~~receipt of~~  
24 **RECEIVING** notice of the filing of any application or initiation,  
25 the sentencing judge and the prosecuting attorney, or their  
26 successors in office, may file information at their disposal,  
27 together with any objections, in writing, ~~which they may desire to~~

1 interpose. If the sentencing judge and the prosecuting attorney, or  
2 their successors in office, do not respond within 30 days, the  
3 parole board shall proceed on the application or initiation.

4 (d) If an application or initiation for commutation is based  
5 on physical or mental incapacity, direct the bureau of health care  
6 services to evaluate the condition of the prisoner and report on  
7 that condition. If the bureau of health care services determines  
8 that the prisoner is physically or mentally incapacitated, the  
9 bureau shall appoint a specialist in the appropriate field of  
10 medicine, who is not employed by the department, to evaluate the  
11 condition of the prisoner and to report on that condition. These  
12 reports are protected by the doctor-patient privilege of  
13 confidentiality, except that these reports shall be provided to the  
14 governor for his or her review.

15 (e) Within 270 days after initiation by the parole board or  
16 ~~receipt of~~ **RECEIVING** an application that the parole board has  
17 determined ~~to have~~ **HAS** merit ~~pursuant to~~ **UNDER** subdivision (a),  
18 make a full investigation and determination on whether or not to  
19 proceed to a public hearing.

20 (f) Conduct a public hearing not later than 90 days after  
21 making a decision to proceed with consideration of a recommendation  
22 for the granting of a reprieve, commutation, or pardon. The public  
23 hearing shall be held before a formal recommendation is transmitted  
24 to the governor. One member of the parole board who will be  
25 involved in the formal recommendation may conduct the hearing, and  
26 the public shall be represented by the attorney general or a member  
27 of the attorney general's staff.

1 (g) At least 30 days before conducting the public hearing,  
2 provide written notice of the public hearing by mail to the  
3 attorney general, the sentencing trial judge, and the prosecuting  
4 attorney, or their successors in office, and each victim who  
5 requests notice ~~pursuant to~~ **UNDER** the crime victim's rights act,  
6 1985 PA 87, MCL 780.751 to 780.834.

7 (h) Conduct the public hearing ~~pursuant to~~ **UNDER** the rules  
8 promulgated by the department. Except as otherwise provided in this  
9 subdivision, any person having information in connection with the  
10 pardon, commutation, or reprieve shall be sworn as a witness. A  
11 person who is a victim shall be given an opportunity to address and  
12 be questioned by the parole board at the hearing or to submit  
13 written testimony for the hearing. In hearing testimony, the parole  
14 board shall give liberal construction to any technical rules of  
15 evidence.

16 (i) Transmit its formal recommendation to the governor.

17 (j) Make all data in its files available to the governor if  
18 the parole board recommends the granting of a reprieve,  
19 commutation, or pardon.

20 (3) Except for medical records protected by the doctor-patient  
21 privilege of confidentiality, the files of the parole board in  
22 cases under this section ~~shall be~~ **ARE** matters of public record.

23 Enacting section 1. This amendatory act does not take effect  
24 unless Senate Bill No. \_\_\_\_ or House Bill No. 4806 (request no.  
25 00240'13 \*) of the 97th Legislature is enacted into law.