

# HOUSE BILL No. 5245

November 9, 2017, Introduced by Reps. Kesto, Rendon and Whiteford and referred to the Committee on Law and Justice.

A bill to amend 1953 PA 232, entitled  
"Corrections code of 1953,"  
by amending section 65 (MCL 791.265), as amended by 2012 PA 599,  
and by adding section 65j.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 65. (1) Under rules promulgated by the director of the  
2 department, the assistant director in charge of the bureau of  
3 correctional facilities, except as otherwise provided in this  
4 section, may cause the transfer or re-transfer of a prisoner from a  
5 correctional facility to which **HE OR SHE WAS** committed to any other  
6 correctional facility, or temporarily to a state institution for  
7 medical or surgical treatment. In effecting a transfer, the  
8 assistant director of the bureau of correctional facilities may  
9 utilize the services of an executive or employee within the

1 department and of a law enforcement officer of the state.

2 (2) ~~A-EXCEPT AS PROVIDED IN SECTION 65J, A~~ prisoner who is  
3 subject to disciplinary time and is committed to the jurisdiction  
4 of the department ~~shall~~**MUST** be confined in a secure correctional  
5 facility for the duration of his or her minimum sentence, except  
6 for periods when the prisoner is away from the secure correctional  
7 facility while being supervised by an employee of the department or  
8 by an employee of a private contractor that operates a facility or  
9 institution that houses prisoners under the jurisdiction of the  
10 department for 1 of the following purposes:

11 (a) Visiting a critically ill relative.

12 (b) Attending the funeral of a relative.

13 (c) Obtaining medical services not otherwise available at the  
14 secure correctional facility.

15 (d) Participating in a work detail.

16 (3) As used in this section, "offender" means a citizen of the  
17 United States or a foreign country who has been convicted of a  
18 crime and been given a sentence in a country other than the country  
19 of which he or she is a citizen. If a treaty is in effect between  
20 the United States and a foreign country, which provides for the  
21 transfer of offenders from the jurisdiction of 1 of the countries  
22 to the jurisdiction of the country of which the offender is a  
23 citizen, and if the offender requests the transfer, the governor of  
24 this state or a person designated by the governor may give the  
25 approval of this state to a transfer of an offender, if the  
26 conditions of the treaty are satisfied.

27 (4) Not less than 45 days before approval of a transfer

~~pursuant to~~ **UNDER** subsection (3) from this state to another country, the governor, or the governor's designee, shall notify the sentencing judge and the prosecuting attorney of the county having original jurisdiction, or their successors in office, of the request for transfer. The notification ~~shall~~ **MUST** indicate any name changes of the offender subsequent to sentencing. Within 20 days after receiving ~~such~~ notification **UNDER THIS SUBSECTION**, the judge or prosecutor may send to the governor, or the governor's designee, information about the criminal action against the offender or objections to the transfer. Objections to the transfer ~~shall~~ **MUST** not preclude approval of the transfer.

(5) As used in this section, "secure correctional facility" means a facility that houses prisoners under the jurisdiction of the department according to the following requirements:

(a) The facility is enclosed by a locked fence or wall that is designed to prevent prisoners from leaving the enclosed premises and that is patrolled by correctional officers.

(b) Prisoners in the facility are restricted to the area inside the fence or wall.

(c) Prisoners are under guard by correctional officers 7 days per week, 24 hours per day.

**SEC. 65J. (1) THE ASSISTANT DIRECTOR IN CHARGE OF THE BUREAU OF CORRECTIONAL FACILITIES MAY PETITION THE COURT THAT SENTENCED A PRISONER FOR AN ORDER TRANSFERRING THE PRISONER FOR MEDICAL OR MENTAL HEALTH TREATMENT UNDER THIS SECTION IF THE ASSISTANT DIRECTOR HAS DETERMINED THAT THE TRANSFER WOULD POSE A MINIMAL RISK TO SOCIETY AND HAS CONSULTED WITH A PHYSICIAN AND THAT PHYSICIAN**

1 DETERMINED 1 OR BOTH OF THE FOLLOWING APPLY TO THE PRISONER:

2 (A) THE PRISONER'S PHYSICAL OR MENTAL HEALTH HAS DETERIORATED  
3 TO A POINT THAT RENDERS THE PRISONER A MINIMAL THREAT TO SOCIETY.

4 (B) THE PRISONER REQUIRES ACUTE LONG-TERM MEDICAL OR MENTAL  
5 HEALTH TREATMENT OR SERVICES.

6 (2) THE ASSISTANT DIRECTOR IN CHARGE OF THE BUREAU OF  
7 CORRECTIONAL FACILITIES SHALL ACCOMPANY A PETITION SUBMITTED UNDER  
8 THIS SECTION WITH ALL OF THE FOLLOWING:

9 (A) THE EVIDENCE THE ASSISTANT DIRECTOR IN CHARGE OF THE  
10 BUREAU OF CORRECTIONAL FACILITIES USED TO MAKE HIS OR HER  
11 DETERMINATION UNDER SUBSECTION (1), INCLUDING, BUT NOT LIMITED TO,  
12 THE RESULTS OF THE VALIDATED RISK ASSESSMENT.

13 (B) THE EVIDENCE THE PHYSICIAN CONSIDERED IN MAKING A  
14 DETERMINATION UNDER SUBSECTION (1).

15 (3) SUBJECT TO SUBSECTION (4), THE COURT THAT SENTENCED A  
16 PRISONER MAY ENTER AN ORDER TRANSFERRING A PRISONER UNDER THIS  
17 SECTION IF THE COURT FINDS THAT THE PRISONER REQUIRES ACUTE LONG-  
18 TERM MEDICAL OR MENTAL HEALTH TREATMENT OR SERVICES OR THAT THE  
19 PRISONER'S PHYSICAL OR MENTAL HEALTH HAS DETERIORATED TO A POINT  
20 THAT RENDERS THE PRISONER A MINIMAL THREAT TO SOCIETY. THE COURT'S  
21 ORDER MUST REQUIRE THAT THE PRISONER TRANSFERRED UNDER THIS SECTION  
22 BE RETURNED TO A CORRECTIONAL FACILITY IF THE PRISONER NO LONGER  
23 MEETS THE REQUIREMENTS UNDER THIS SUBSECTION, OR IF THE CONDITIONS  
24 DESCRIBED IN SUBSECTION (4) ARE NO LONGER SATISFIED.

25 (4) A COURT SHALL NOT ENTER AN ORDER TRANSFERRING A PRISONER  
26 UNDER THIS SECTION UNLESS ALL OF THE FOLLOWING CONDITIONS ARE  
27 SATISFIED:

1 (A) A PLACEMENT OPTION HAS BEEN SECURED FOR THE PRISONER IN  
2 THE COMMUNITY. A PLACEMENT OPTION MAY INCLUDE, BUT IS NOT LIMITED  
3 TO, HOME CONFINEMENT OR A MEDICAL OR MENTAL HEALTH FACILITY. A  
4 PLACEMENT OPTION NEED NOT INVOLVE ANY TYPE OF SUPERVISION OF THE  
5 PRISONER BY AN EMPLOYEE OF THE DEPARTMENT OR AN EMPLOYEE OF A  
6 PRIVATE CONTRACTOR OF THE DEPARTMENT OR OTHERWISE BE CONSIDERED A  
7 SECURE FACILITY. A PLACEMENT OPTION MAY INVOLVE ELECTRONIC  
8 MONITORING.

9 (B) FOR A PRISONER WHO MEETS THE REQUIREMENTS OF SUBSECTION  
10 (1) (B), THE PLACEMENT OPTION SECURED UNDER SUBDIVISION (A) POSES A  
11 MINIMAL RISK TO SOCIETY.

12 (C) THE ASSISTANT DIRECTOR IN CHARGE OF THE BUREAU OF  
13 CORRECTIONAL FACILITIES HAS MADE A REASONABLE EFFORT TO DETERMINE  
14 WHETHER EXPENSES RELATED TO THE PLACEMENT OPTION SECURED UNDER  
15 SUBDIVISION (A) ARE COVERED BY MEDICAID, A HEALTH CARE POLICY, A  
16 CERTIFICATE OF INSURANCE, OR ANOTHER SOURCE FOR THE PAYMENT OF  
17 MEDICAL EXPENSES OR WHETHER THE PRISONER HAS SUFFICIENT INCOME OR  
18 ASSETS TO PAY FOR THE EXPENSES RELATED TO THE PLACEMENT.

19 (D) THE DEPARTMENT HAS PROVIDED NOTICE TO THE PROSECUTOR'S  
20 OFFICE IN THE COUNTY IN WHICH THE PRISONER WAS SENTENCED AND TO  
21 EACH VICTIM ENTITLED TO NOTICE UNDER THE WILLIAM VAN REGENMORTER  
22 CRIME VICTIM'S RIGHTS ACT, 1985 PA 87, MCL 780.751 TO 780.834.

23 (5) AN ORDER ENTERED UNDER SUBSECTION (3) MAY INCLUDE A  
24 PROVISION REQUIRING THE PRISONER TO SUBMIT TO PERIODIC  
25 REEXAMINATION BY A PHYSICIAN TO ASSESS WHETHER THE PRISONER  
26 CONTINUES TO MEET THE REQUIREMENTS FOR TRANSFER UNDER SUBSECTION  
27 (3). IF A REEXAMINATION REVEALS THAT THE PRISONER NO LONGER MEETS

1 THE REQUIREMENTS FOR TRANSFER UNDER SUBSECTION (3), THE COURT SHALL  
2 ORDER THE PRISONER BE RETURNED TO A CORRECTIONAL FACILITY FOR A  
3 TERM OF IMPRISONMENT NOT TO EXCEED THE PRISONER'S SENTENCE, LESS  
4 TIME SERVED, FOR THE OFFENSE OF CONVICTION. FOR PURPOSES OF  
5 CALCULATING TIME SERVED UNDER THIS SUBSECTION, THE TIME THE  
6 PRISONER HAS SPENT TRANSFERRED UNDER SUBSECTION (3) IS TREATED AS  
7 IF THE PRISONER HAD BEEN IMPRISONED IN A CORRECTIONAL FACILITY.

8 (6) AS USED IN THIS SECTION, "ELECTRONIC MONITORING" MEANS  
9 THAT TERM AS DEFINED IN SECTION 85 OF THE CORRECTIONS CODE OF 1953,  
10 1953 PA 232, MCL 791.285.

11 Enacting section 1. This amendatory act takes effect 90 days  
12 after the date it is enacted into law.