

HOUSE BILL No. 5665

February 28, 2018, Introduced by Reps. Howrylak and LaGrand and referred to the Committee on Law and Justice.

A bill to amend 1953 PA 232, entitled "Corrections code of 1953," by amending sections 20g, 33, 34, 34a, 35, 36, 51, 65, and 65a (MCL 791.220g, 791.233, 791.234, 791.234a, 791.235, 791.236, 791.251, 791.265, and 791.265a), section 20g as amended by 2000 PA 211, section 33 as amended by 2017 PA 14, section 34 as amended by 2016 PA 354, section 34a as amended by 2012 PA 259, section 35 as amended by 2012 PA 24, section 36 as amended by 2012 PA 623, section 51 as amended by 1998 PA 269, and sections 65 and 65a as amended by 2012 PA 599; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20g. (1) The department may establish a youth
2 correctional facility which ~~shall~~**MUST** house only prisoners
3 committed to the jurisdiction of the department who are 19 years of

1 age or less. If the department establishes or contracts with a
2 private vendor for the operation of a youth correctional facility,
3 following intake processing in a department operated facility, the
4 department shall house all male prisoners who are 16 years of age
5 or less at the youth correctional facility unless the department
6 determines that the prisoner should be housed at a different
7 facility for reasons of security, safety, or because of the
8 prisoner's specialized physical or mental health care needs.

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

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

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

22 (5) The department may establish and operate the youth
23 correctional facility or may contract on behalf of the state with a
24 private vendor for the construction or operation, or both, of the
25 youth correctional facility. If the department contracts with a
26 private vendor to construct, rehabilitate, develop, renovate, or
27 operate any existing or anticipated facility ~~pursuant to~~**UNDER** this

1 section, the department shall require a written certification from
2 the private vendor regarding all of the following:

3 (a) If practicable to efficiently and effectively complete the
4 project, the private vendor shall follow a competitive bid process
5 for the construction, rehabilitation, development, or renovation of
6 the facility, and this process ~~shall~~**MUST** be open to all Michigan
7 residents and firms. The private vendor shall not discriminate
8 against any contractor on the basis of its affiliation or
9 nonaffiliation with any collective bargaining organization.

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

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

15 (6) If the department contracts with a private vendor for the
16 operation of the youth correctional facility, the department shall
17 require by contract that the personnel employed by the private
18 vendor in the operation of the facility be certified as
19 correctional officers to the same extent as would be required if
20 those personnel were employed in a correctional facility operated
21 by the department. The department also shall require by contract
22 that the private vendor meet requirements specified by the
23 department regarding security, protection of the public,
24 inspections by the department, programming, liability and
25 insurance, conditions of confinement, educational services required
26 under subsection (11), and any other issues the department
27 considers necessary for the operation of the youth correctional

1 facility. The department shall also require that the contract
2 include provisions to protect the public's interest if the private
3 vendor defaults on the contract. Before finalizing a contract with
4 a private vendor for the construction or operation of the youth
5 correctional facility, the department shall submit the proposed
6 contract to the standing committees of the senate and the house of
7 representatives having jurisdiction of corrections issues, the
8 corrections subcommittees of the standing committees on
9 appropriations of the senate and the house of representatives, and,
10 with regard to proposed construction contracts, the joint committee
11 on capital outlay. A contract between the department and a private
12 vendor for the construction or operation of the youth correctional
13 facility ~~shall be~~ **IS** contingent upon appropriation of the required
14 funding. If the department contracts with a private vendor under
15 this section, the selection of that private vendor ~~shall~~ **MUST** be by
16 open, competitive bid.

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

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

24 (a) Calculate inmate release and parole eligibility dates.

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

27 (c) Approve inmates for extensions of limits of confinement.

1 (9) The youth correctional facility shall be open to visits
2 during all business hours, and during nonbusiness hours unless an
3 emergency prevents it, by any elected state senator or state
4 representative.

5 (10) 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 (11) Regardless of whether the department itself operates the
11 youth correctional facility or contracts with a private vendor to
12 operate the youth correctional facility, all of the following
13 educational services shall be provided for juvenile prisoners
14 housed at the facility who have not earned a high school diploma or
15 received a ~~general education certificate (GED)~~: **HIGH SCHOOL**
16 **EQUIVALENCY CERTIFICATE:**

17 (a) The department or private vendor shall require that a
18 prisoner whose academic achievement level is not sufficient to
19 allow the prisoner to participate effectively in a program leading
20 to the attainment of a ~~GED~~ **HIGH SCHOOL EQUIVALENCY** certificate
21 participate in classes that will prepare him or her to participate
22 effectively in the ~~GED~~ **HIGH SCHOOL EQUIVALENCY CERTIFICATE** program,
23 and shall provide those classes in the facility.

24 (b) The department or private vendor shall require that a
25 prisoner who successfully completes classes described in
26 subdivision (a), or whose academic achievement level is otherwise
27 sufficient, participate in classes leading to the attainment of a

1 ~~GED~~ **HIGH SCHOOL EQUIVALENCY** certificate, and shall provide those
2 classes.

3 (12) Neither the department nor the private vendor shall seek
4 to have the youth correctional facility authorized as a public
5 school academy under the revised school code, 1976 PA 451, MCL
6 380.1 to 380.1852.

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

20 Sec. 33. (1) The grant of a parole is subject to all of the
21 following conditions:

22 (a) A prisoner must not be given liberty on parole until the
23 board has reasonable assurance, after consideration of all of the
24 facts and circumstances, including the prisoner's mental and social
25 attitude, that the prisoner will not become a menace to society or
26 to the public safety.

27 (b) Except as provided in section 34a, a parole must not be

1 granted to a prisoner ~~other than a prisoner subject to disciplinary~~
2 ~~time~~ until the prisoner has served the minimum term imposed by the
3 court less allowances for good time or special good time to which
4 the prisoner may be entitled by statute, except that a prisoner
5 ~~other than a prisoner subject to disciplinary time~~ is eligible for
6 parole before the expiration of his or her minimum term of
7 imprisonment whenever the sentencing judge, or the judge's
8 successor in office, gives written approval of the parole of the
9 prisoner before the expiration of the minimum term of imprisonment.

10 ~~— (c) Except as provided in section 34a, and notwithstanding the~~
11 ~~provisions of subdivision (b), a parole must not be granted to a~~
12 ~~prisoner other than a prisoner subject to disciplinary time~~
13 ~~sentenced for the commission of a crime described in section 33b(a)~~
14 ~~to (cc) until the prisoner has served the minimum term imposed by~~
15 ~~the court less an allowance for disciplinary credits as provided in~~
16 ~~section 33(5) of 1893 PA 118, MCL 800.33. A prisoner described in~~
17 ~~this subdivision is not eligible for special parole.~~

18 ~~— (d) Except as provided in section 34a, a parole must not be~~
19 ~~granted to a prisoner subject to disciplinary time until the~~
20 ~~prisoner has served the minimum term imposed by the court.~~

21 (C) ~~(e)~~—A prisoner must not be released on parole until the
22 parole board has satisfactory evidence that arrangements have been
23 made for such honorable and useful employment as the prisoner is
24 capable of performing, for the prisoner's education, or for the
25 prisoner's care if the prisoner is mentally or physically ill or
26 incapacitated.

27 (D) ~~(f)~~—A prisoner whose minimum term of imprisonment is 2

1 years or more must not be released on parole unless he or she has
2 either earned a high school diploma or a high school equivalency
3 certificate. The director of the department may waive the
4 restriction imposed by this subdivision as to any prisoner who is
5 over the age of 65 or who was gainfully employed immediately before
6 committing the crime for which he or she was incarcerated. The
7 department may also waive the restriction imposed by this
8 subdivision as to any prisoner who has a learning disability, who
9 does not have the necessary proficiency in English, or who for some
10 other reason that is not the fault of the prisoner is unable to
11 successfully complete the requirements for a high school diploma or
12 a high school equivalency certificate. If the prisoner does not
13 have the necessary proficiency in English, the department shall
14 provide English language training for that prisoner necessary for
15 the prisoner to begin working toward the completion of the
16 requirements for a high school equivalency certificate. This
17 subdivision applies to prisoners sentenced for crimes committed
18 after December 15, 1998. In providing an educational program
19 leading to a high school diploma or a high school equivalency
20 certificate, the department shall give priority to prisoners
21 sentenced for crimes committed on or before December 15, 1998.

22 (2) Paroles-in-custody to answer warrants filed by local or
23 out-of-state agencies, or immigration officials, are permissible if
24 an accredited agent of the agency filing the warrant calls for the
25 prisoner to be paroled in custody.

26 (3) The parole board may promulgate rules under the
27 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to

1 24.328, that are not inconsistent with this act with respect to
2 conditions imposed upon prisoners paroled under this act.

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

11 ~~—— (2) Except as provided in section 34a, a prisoner subject to~~
12 ~~disciplinary time sentenced to an indeterminate sentence and~~
13 ~~confined in a state correctional facility with a minimum in terms~~
14 ~~of years is subject to the jurisdiction of the parole board when~~
15 ~~the prisoner has served a period of time equal to the minimum~~
16 ~~sentence imposed by the court for the crime of which he or she was~~
17 ~~convicted.~~

18 (2) ~~(3)~~—If a prisoner ~~other than a prisoner subject to~~
19 ~~disciplinary time~~ is sentenced for consecutive terms, whether
20 received at the same time or at any time during the life of the
21 original sentence, the parole board has jurisdiction over the
22 prisoner for purposes of parole when the prisoner has served the
23 total time of the added minimum terms, less the good time ~~and~~
24 ~~disciplinary credits~~ allowed by statute. The maximum terms of the
25 sentences shall **MUST** be added to compute the new maximum term under
26 this subsection, and discharge shall **MUST** be issued only after the
27 total of the maximum sentences has been served less good time ~~and~~

1 ~~disciplinary credits,~~ unless the prisoner is paroled and discharged
2 upon satisfactory completion of the parole.

3 ~~—— (4) If a prisoner subject to disciplinary time is sentenced~~
4 ~~for consecutive terms, whether received at the same time or at any~~
5 ~~time during the life of the original sentence, the parole board has~~
6 ~~jurisdiction over the prisoner for purposes of parole when the~~
7 ~~prisoner has served the total time of the added minimum terms. The~~
8 ~~maximum terms of the sentences shall be added to compute the new~~
9 ~~maximum term under this subsection, and discharge shall be issued~~
10 ~~only after the total of the maximum sentences has been served,~~
11 ~~unless the prisoner is paroled and discharged upon satisfactory~~
12 ~~completion of the parole.~~

13 (3) ~~(5) If a prisoner other than a prisoner subject to~~
14 ~~disciplinary time has 1 or more consecutive terms remaining to~~
15 ~~serve in addition to the term he or she is serving, the parole~~
16 ~~board may terminate the sentence the prisoner is presently serving~~
17 ~~at any time after the minimum term of the sentence has been served.~~

18 (4) ~~(6) A prisoner sentenced to imprisonment for life for any~~
19 ~~of the following is not eligible for parole and is instead subject~~
20 ~~to the provisions of section 44:~~

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

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

25 (c) A violation of chapter XXXIII of the Michigan penal code,
26 1931 PA 328, MCL 750.200 to 750.212a.

27 (d) A violation of section 17764(7) of the public health code,

1 1978 PA 368, MCL 333.17764.

2 (e) First degree criminal sexual conduct in violation of
3 section 520b(2)(c) of the Michigan penal code, 1931 PA 328, MCL
4 750.520b.

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

7 **(5)** ~~(7)~~—A prisoner sentenced to imprisonment for life, other
8 than a prisoner described in subsection ~~(6)~~, **(4)**, is subject to the
9 jurisdiction of the parole board and may be placed on parole
10 according to the conditions prescribed in subsection ~~(8)~~ **(6)** if he
11 or she meets any of the following criteria:

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

16 (b) Except as provided in subsection ~~(12)~~, **(10)**, the prisoner
17 has served 20 calendar years of a 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 has another
20 conviction for a serious crime.

21 (c) Except as provided in subsection ~~(12)~~, **(10)**, the prisoner
22 has served 17-1/2 calendar years of the sentence for violating, or
23 attempting or conspiring to violate, section 7401(2)(a)(i) of the
24 public health code, 1978 PA 368, MCL 333.7401, and does not have
25 another conviction for a serious crime.

26 **(6)** ~~(8)~~—A parole granted to a prisoner under subsection ~~(7)~~
27 **(5)** is subject to the following conditions:

1 (a) At the conclusion of 10 calendar years of the prisoner's
2 sentence and thereafter as determined by the parole board until the
3 prisoner is paroled, discharged, or deceased, and in accordance
4 with the procedures described in subsection ~~(9)~~, ~~(7)~~, 1 member of
5 the parole board shall interview the prisoner. The interview
6 schedule prescribed in this subdivision applies to all prisoners to
7 whom subsection ~~(7)~~ ~~(5)~~ applies, regardless of the date on which
8 they were sentenced.

9 (b) In addition to the interview schedule prescribed in
10 subdivision (a), the parole board shall review the prisoner's file
11 at the conclusion of 15 calendar years of the prisoner's sentence
12 and every 5 years thereafter until the prisoner is paroled,
13 discharged, or deceased. A prisoner whose file is to be reviewed
14 under this subdivision ~~shall~~ **MUST** be notified of the upcoming file
15 review at least 30 days before the file review takes place and
16 ~~shall~~ **MUST** be allowed to submit written statements or documentary
17 evidence for the parole board's consideration in conducting the
18 file review.

19 (c) A decision to grant or deny parole to the prisoner ~~shall~~
20 **MUST** not be made until after a public hearing held in the manner
21 prescribed for pardons and commutations in sections 44 and 45.
22 Notice of the public hearing ~~shall~~ **MUST** be given to the sentencing
23 judge, or the judge's successor in office. Parole ~~shall~~ **MUST** not be
24 granted if the sentencing judge files written objections to the
25 granting of the parole within 30 days of receipt of the notice of
26 hearing, but the sentencing judge's written objections shall bar
27 parole only if the sentencing judge is still in office in the court

1 before which the prisoner was convicted and sentenced. A sentencing
2 judge's successor in office may file written objections to the
3 granting of parole, but a successor judge's objections shall not
4 bar the granting of parole under subsection ~~(7)~~—**(5)**. If written
5 objections are filed by either the sentencing judge or the judge's
6 successor in office, they ~~shall~~**MUST** be made part of the prisoner's
7 file.

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

18 **(7)** ~~(9)~~—An interview conducted under subsection ~~(8)~~—~~(a)~~—**(6)** **(A)**
19 is subject to both of the following requirements:

20 (a) The prisoner ~~shall~~**MUST** be given written notice, not less
21 than 30 days before the interview date, stating that the interview
22 will be conducted.

23 (b) The prisoner may be represented at the interview by an
24 individual of his or her choice. The representative ~~shall~~**MUST** not
25 be another prisoner. A prisoner is not entitled to appointed
26 counsel at public expense. The prisoner or representative may
27 present relevant evidence in favor of holding a public hearing as

1 allowed in subsection ~~(8)(e)~~. **(6) (C)** .

2 **(8)** ~~(10)~~—In determining whether a prisoner convicted of
3 violating, or attempting or conspiring to violate, section
4 7401(2) (a) (i) of the public health code, 1978 PA 368, MCL 333.7401,
5 and sentenced to imprisonment for life before October 1, 1998 is to
6 be released on parole, the parole board shall consider all of the
7 following:

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

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

13 (c) Any of the following:

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

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

27 (iii) Whether the violation was committed in a drug-free

1 school zone.

2 (iv) Whether the violation involved the delivery of a
3 controlled substance to an individual less than 17 years of age or
4 possession with intent to deliver a controlled substance to an
5 individual less than 17 years of age.

6 (9) ~~(11)~~—Except as provided in section 34a, a prisoner's
7 release on parole is discretionary with the parole board. The
8 action of the parole board in granting a parole is appealable by
9 the prosecutor of the county from which the prisoner was committed
10 or the victim of the crime for which the prisoner was convicted.
11 ~~The~~ **AN** appeal ~~shall be~~ **FILED UNDER THIS SUBSECTION IS** to the
12 circuit court in the county from which the prisoner was committed,
13 by leave of the court.

14 (10) ~~(12)~~—If the sentencing judge, or his or her successor in
15 office, determines on the record that a prisoner described in
16 subsection ~~(7) (b) or (c)~~ **(5) (B) OR (C)** sentenced to imprisonment
17 for life for violating, or attempting or conspiring to violate,
18 section 7401(2) (a) (i) of the public health code, 1978 PA 368, MCL
19 333.7401, has cooperated with law enforcement, the prisoner is
20 subject to the jurisdiction of the parole board and may be released
21 on parole as provided in subsection ~~(7) (b) or (c)~~ **(5) (B) OR (C)** 2-
22 1/2 years earlier than the time otherwise indicated in subsection
23 ~~(7) (b) or (c)~~ **(5) (B) OR (C)**. The prisoner is considered to have
24 cooperated with law enforcement if the court determines on the
25 record that the prisoner had no relevant or useful information to
26 provide. The court shall not make a determination that the prisoner
27 failed or refused to cooperate with law enforcement on grounds that

1 the defendant exercised his or her constitutional right to trial by
2 jury. If the court determines at sentencing that the defendant
3 cooperated with law enforcement, the court shall include its
4 determination in the judgment of sentence.

5 **(11)** ~~(13)~~ Notwithstanding ~~subsections (1) and (2)~~, **SUBSECTION**
6 **(1)**, an individual convicted of violating, or attempting or
7 conspiring to violate, section 7401(2)(a)(i) or 7403(2)(a)(i) of
8 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403,
9 whose offense occurred before March 1, 2003, and who was sentenced
10 to a term of years, is eligible for parole after serving 20 years
11 of the sentence imposed for the violation if the individual has
12 another serious crime or 17-1/2 years of the sentence if the
13 individual does not have another conviction for a serious crime, or
14 after serving the minimum sentence imposed for that violation,
15 whichever is less.

16 **(12)** ~~(14)~~ Notwithstanding ~~subsections (1) and (2)~~, **SUBSECTION**
17 **(1)**, an individual who was convicted of violating, or attempting or
18 conspiring to violate, section 7401(2)(a)(ii) or 7403(2)(a)(ii) of
19 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403,
20 whose offense occurred before March 1, 2003, and who was sentenced
21 according to those sections as they existed before March 1, 2003,
22 is eligible for parole after serving the minimum of each sentence
23 imposed for that violation or 10 years of each sentence imposed for
24 that violation, whichever is less.

25 **(13)** ~~(15)~~ Notwithstanding ~~subsections (1) and (2)~~, **SUBSECTION**
26 **(1)**, an individual who was convicted of violating, or attempting or
27 conspiring to violate, section 7401(2)(a)(iii) or 7403(2)(a)(iii)

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

7 **(14)** ~~(16)~~ Notwithstanding ~~subsections (1) and (2)~~, **SUBSECTION**
8 **(1)**, an individual who was convicted of violating, or attempting or
9 conspiring to violate, section 7401(2)(a)(iv) or 7403(2)(a)(iv) of
10 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403,
11 whose offense occurred before March 1, 2003, who was sentenced
12 according to those sections of law as they existed before March 1,
13 2003 to consecutive terms of imprisonment for 2 or more violations
14 of section 7401(2)(a) or 7403(2)(a) **OF THE PUBLIC HEALTH CODE, 1978**
15 **PA 368, MCL 333.7401 AND 333.7403**, is eligible for parole after
16 serving 1/2 of the minimum sentence imposed for each violation of
17 section 7401(2)(a)(iv) or 7403(2)(a)(iv) **OF THE PUBLIC HEALTH CODE,**
18 **1978 PA 368, MCL 333.7401 AND 333.7403**. This subsection applies
19 only to sentences imposed for violations of section 7401(2)(a)(iv)
20 or 7403(2)(a)(iv) **OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL**
21 **333.7401 AND 333.7403**, and does not apply if the sentence was
22 imposed for a conviction for a new offense committed while the
23 individual was on probation or parole.

24 **(15)** ~~(17)~~ The parole board shall provide notice to the
25 prosecuting attorney of the county in which the individual was
26 convicted before granting parole to the individual under subsection
27 ~~(13), (14), (15), or (16)~~. **(11), (12), (13), OR (14)**.

1 **(16)** ~~(18)~~—As used in this section:

2 (a) "Serious crime" means violating or conspiring to violate
3 article 7 of the public health code, 1978 PA 368, MCL 333.7101 to
4 333.7545, that is punishable by imprisonment for more than 4 years,
5 or an offense against a person in violation of section 83, 84, 86,
6 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d,
7 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA 328,
8 MCL 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.316,
9 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b,
10 750.520c, 750.520d, 750.520g, 750.529, 750.529a, and 750.530.

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

13 Sec. 34a. (1) A prisoner sentenced to an indeterminate term of
14 imprisonment under the jurisdiction of the department, regardless
15 of when he or she was sentenced, shall be considered by the
16 department for placement in a special alternative incarceration
17 unit established under section 3 of the special alternative
18 incarceration act, 1988 PA 287, MCL 798.13, if the prisoner meets
19 the eligibility requirements of subsections (2) and (3). For a
20 prisoner committed to the jurisdiction of the department on or
21 after March 19, 1992, the department shall determine before the
22 prisoner leaves the reception center whether the prisoner is
23 eligible for placement in a special alternative incarceration unit,
24 although actual placement may take place at a later date. A
25 determination of eligibility does not guarantee placement in a
26 unit.

27 (2) To be eligible for placement in a special alternative

1 incarceration unit, the prisoner ~~shall~~**MUST** meet all of the
2 following requirements:

3 (a) The prisoner's minimum sentence does not exceed either of
4 the following limits, as applicable:

5 (i) Twenty-four months or less for a violation of section 110
6 or 110a of the Michigan penal code, 1931 PA 328, MCL 750.110 and
7 750.110a, if the violation involved any occupied dwelling house.

8 (ii) Thirty-six months or less for any other crime.

9 (b) The prisoner has never previously been placed in a special
10 alternative incarceration unit as either a prisoner or a
11 probationer, unless he or she was removed from a special
12 alternative incarceration unit for medical reasons as specified in
13 subsection (7).

14 (c) The prisoner is physically able to participate in the
15 program.

16 (d) The prisoner does not appear to have any mental disability
17 that would prevent participation in the program.

18 (e) The prisoner is serving his or her first prison sentence.

19 (f) At the time of sentencing, the judge did not prohibit
20 participation in the program in the judgment of sentence.

21 (g) The prisoner is otherwise suitable for the program, as
22 determined by the department.

23 (h) The prisoner is not serving a sentence for any of the
24 following crimes:

25 (i) A violation of section 49, ~~80~~—83, 89, 91, 157b, 158, 207,
26 260, 316, 317, 327, 328, 335a, 338, 338a, 338b, 349, 349a, 350,
27 422, 436, 511, 520b, 529, 529a, 531, or 544 of the Michigan penal

1 code, 1931 PA 328, MCL 750.49, ~~750.80~~, 750.83, 750.89, 750.91,
2 750.157b, 750.158, 750.207, 750.260, 750.316, 750.317, 750.327,
3 750.328, 750.335a, 750.338, 750.338a, 750.338b, 750.349, 750.349a,
4 750.350, 750.422, 750.436, 750.511, 750.520b, 750.529, 750.529a,
5 750.531, and 750.544, **OR FORMER SECTION 80 OF THAT ACT.**

6 (ii) A violation of section 145c, 520c, 520d, or 520g of the
7 Michigan penal code, 1931 PA 328, MCL 750.145c, 750.520c, 750.520d,
8 and 750.520g.

9 (iii) A violation of section 72, 73, or 75 of the Michigan
10 penal code, 1931 PA 328, MCL 750.72, 750.73, and 750.75.

11 (iv) A violation of section 86, 112, 136b, 193, 195, 213, ~~319~~,
12 321, 329, or 397 of the Michigan penal code, 1931 PA 328, MCL
13 750.86, 750.112, 750.136b, 750.193, 750.195, 750.213, ~~750.319~~,
14 750.321, 750.329, and 750.397, **OR FORMER SECTION 319 OF THAT ACT.**

15 (v) A violation of section 2 of 1968 PA 302, MCL 752.542.

16 (vi) An attempt to commit a crime described in subparagraphs
17 (i) to (v).

18 (vii) A violation occurring on or after January 1, 1992, of
19 section 625(4) or (5) of the Michigan vehicle code, 1949 PA 300,
20 MCL 257.625.

21 (viii) A crime for which the prisoner was punished under
22 section 10, 11, or 12 of chapter IX of the code of criminal
23 procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

24 (3) A prisoner who is serving a sentence for a violation of
25 section 7401 or 7403 of the public health code, 1978 PA 368, MCL
26 333.7401 and 333.7403, and who has previously been convicted for a
27 violation of section 7401 or 7403(2)(a), (b), or (e) of the public

1 health code, 1978 PA 368, MCL 333.7401 and 333.7403, is not
2 eligible for placement in a special alternative incarceration unit
3 until after he or she has served the equivalent of the mandatory
4 minimum sentence prescribed by statute for that violation.

5 (4) If the sentencing judge prohibited a prisoner's
6 participation in the special alternative incarceration program in
7 the judgment of sentence, that prisoner ~~shall~~**MUST** not be placed in
8 a special alternative incarceration unit. If the sentencing judge
9 permitted the prisoner's participation in the special alternative
10 incarceration program in the judgment of sentence, that prisoner
11 may be placed in a special alternative incarceration unit if the
12 department determines that the prisoner also meets the requirements
13 of subsections (2) and (3). If the sentencing judge neither
14 prohibited nor permitted a prisoner's participation in the special
15 alternative incarceration program in the judgment of sentence, and
16 the department determines that the prisoner meets the eligibility
17 requirements of subsections (2) and (3), the department shall
18 notify the judge or the judge's successor, the prosecuting attorney
19 for the county in which the prisoner was sentenced, and any victim
20 of the crime for which the prisoner was committed if the victim has
21 submitted to the department a written request for any notification
22 under section 19(1) of the William Van Regenmorter crime victim's
23 rights act, 1985 PA 87, MCL 780.769, of the proposed placement of
24 the prisoner in the special alternative incarceration unit. The
25 notices ~~shall~~**MUST** be sent not later than 30 days before placement
26 is intended to occur. The department shall not place the prisoner
27 in a special alternative incarceration unit unless the sentencing

1 judge, or the judge's successor, notifies the department, in
2 writing, that he or she does not object to the proposed placement.
3 In making the decision on whether or not to object, the judge, or
4 judge's successor, shall review any impact statement submitted
5 under section 14 of the William Van Regenmorter crime victim's
6 rights act, 1985 PA 87, MCL 780.764, by the victim or victims of
7 the crime of which the prisoner was convicted.

8 (5) Notwithstanding subsection (4), a prisoner ~~shall~~**MUST** not
9 be placed in a special alternative incarceration unit unless the
10 prisoner consents to that placement and agrees that the department
11 may suspend or restrict privileges generally afforded other
12 prisoners including, but not limited to, the areas of visitation,
13 property, mail, publications, commissary, library, and telephone
14 access. However, the department may not suspend or restrict the
15 prisoner's access to the prisoner grievance system.

16 (6) Notwithstanding subsections (4) and (5), a prisoner ~~shall~~
17 **MUST** not be placed in a special alternative incarceration unit
18 unless all of the following conditions are met for the prisoner at
19 the special alternative incarceration unit:

20 (a) Upon entry into the special alternative incarceration
21 unit, a validated risk and need assessment from which a prisoner-
22 specific transition accountability plan and prisoner-specific
23 programming during program enrollment are utilized.

24 (b) Interaction with community-based service providers through
25 established prison in-reach services from the community to which
26 the prisoner will return is utilized.

27 (c) Prisoner discharge planning is utilized.

1 (d) Community follow-up services are utilized.

2 (7) A prisoner may be placed in a special alternative
3 incarceration program for a period of not less than 90 days or more
4 than 120 days. If, during that period, the prisoner misses more
5 than 5 days of program participation due to medical excuse for
6 illness or injury occurring after he or she was placed in the
7 program, the period of placement shall be increased by the number
8 of days missed, beginning with the sixth day of medical excuse, up
9 to a maximum of 20 days. However, the total number of days a
10 prisoner may be placed in this program, including days missed due
11 to medical excuse, shall not exceed 120 days. A medical excuse
12 ~~shall~~**MUST** be verified by a physician's statement. A prisoner who
13 is medically unable to participate in the program for more than 25
14 days shall be returned to a state correctional facility but may be
15 reassigned to the program if the prisoner meets the eligibility
16 requirements of subsections (2) and (3).

17 (8) Upon certification of completion of the special
18 alternative incarceration program, the prisoner ~~shall~~**MUST** be
19 placed on parole. A prisoner paroled under this section ~~shall~~**MUST**
20 have conditions of parole as determined appropriate by the parole
21 board and ~~shall~~**MUST** be placed on parole for not less than 18
22 months, or the balance of the prisoner's minimum sentence,
23 whichever is greater, with at least the first 120 days under
24 intensive supervision.

25 (9) The parole board may suspend or revoke parole for any
26 prisoner paroled under this section subject to sections 39a and
27 40a. ~~For a prisoner other than a prisoner subject to disciplinary~~

1 ~~time, if~~ **IF** parole is revoked before the expiration of the
2 prisoner's minimum sentence, less ~~disciplinary credits,~~ **GOOD TIME**,
3 the parole board shall forfeit, under section ~~33(13)~~ **33(12)** of 1893
4 PA 118, MCL 800.33, all ~~disciplinary credits that were~~ **GOOD TIME**
5 accumulated during special alternative incarceration, and the
6 prisoner shall be considered for parole under section 35.

7 (10) The department shall report annually to the legislature
8 the impact of the operation of this section, including a report
9 concerning recidivism.

10 (11) The department shall contract annually for third-party
11 evaluations that report on both of the following:

12 (a) The implementation of the requirements of subsection (6).

13 (b) The success of the special alternative incarceration
14 program as revised under subsection (6), as evidenced by the extent
15 to which participants subsequently violate the conditions of their
16 parole, have their orders of parole revoked, or revictimize as
17 evidenced by being arrested or convicted for new offenses,
18 absconding from parole, or having outstanding warrants.

19 (12) Each prisoner or probationer placed in the special
20 alternative incarceration program shall fully participate in the
21 Michigan prisoner reentry initiative.

22 Sec. 35. (1) The release of a prisoner on parole ~~shall~~ **MUST** be
23 granted solely upon the initiative of the parole board. The parole
24 board may grant a parole without interviewing the prisoner.
25 However, ~~beginning January 26, 1996,~~ the parole board may grant a
26 parole without interviewing the prisoner only if, after evaluating
27 the prisoner according to the parole guidelines, the parole board

1 determines that the prisoner has a high probability of being
2 paroled and the parole board therefore intends to parole the
3 prisoner. Except as provided in subsection (2), a prisoner ~~shall~~
4 **MUST** not be denied parole without an interview before 1 member of
5 the parole board. The interview ~~shall~~ **MUST** be conducted at least 1
6 month before the expiration of the prisoner's minimum sentence less
7 applicable good time. ~~and disciplinary credits for a prisoner~~
8 ~~eligible for good time and disciplinary credits, or at least 1~~
9 ~~month before the expiration of the prisoner's minimum sentence for~~
10 ~~a prisoner subject to disciplinary time.~~ The parole board shall
11 consider any statement made to the parole board by a crime victim
12 under the William Van Regenmorter crime victim's rights act, 1985
13 PA 87, MCL 780.751 to 780.834, or under any other provision of law.
14 The parole board shall not consider any of the following factors in
15 making a parole determination:

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

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

24 (2) ~~Beginning January 26, 1996, if, IF,~~ after evaluating a
25 prisoner according to the parole guidelines, the parole board
26 determines that the prisoner has a low probability of being paroled
27 and the parole board therefore does not intend to parole the

1 prisoner, the parole board is not required to interview the
2 prisoner before 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~~
9 **MUST** be sent a notice of intent to conduct an interview at least 1
10 month before the date of the interview. The notice ~~shall~~**MUST** state
11 the 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~~**MUST** not be based on reasons other than those
14 stated in the notice of intent to conduct an interview except for
15 good cause stated to the prisoner at or before the interview and in
16 the written explanation required by subsection (12). ~~This~~
17 ~~subsection 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~~**MUST** be given not more than 30 days after the notice of
27 intent to conduct an interview is issued and ~~shall~~**MUST** be made in

1 writing. During the interview held pursuant to a notice of intent
2 to conduct an interview, the prisoner may be represented by an
3 individual of his or her choice. The representative ~~shall~~**MUST** not
4 be another prisoner or an attorney. A prisoner is not entitled to
5 appointed counsel at public expense. The prisoner or representative
6 may present relevant evidence in support of release.

7 (7) ~~At least~~**NOT LESS THAN** 90 days before the expiration of
8 the prisoner's minimum sentence less applicable good time ~~and~~
9 ~~disciplinary credits for a prisoner eligible for good time or~~
10 ~~disciplinary credits, or at least 90 days before the expiration of~~
11 ~~the prisoner's minimum sentence for a prisoner subject to~~
12 ~~disciplinary time, or~~ **90 DAYS BEFORE** the expiration of a 12-month
13 continuance, ~~for any prisoner,~~ a parole eligibility report shall
14 **MUST** be prepared by appropriate institutional staff. The parole
15 eligibility report ~~shall~~**MUST** be considered pertinent information
16 for purposes of subsection (5). The report ~~shall~~**MUST** include all
17 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 refused to attempt to obtain
2 identification documents under section 34c, if applicable.

3 ~~(f) For a prisoner subject to disciplinary time, a statement~~
4 ~~of all disciplinary time submitted for the parole board's~~
5 ~~consideration under section 34 of 1993 PA 118, MCL 800.34.~~

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

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

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

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

1 treatment" means that term as defined in section 401 of the mental
2 health code, 1974 PA 258, MCL 330.1401.

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

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

11 Sec. 36. (1) All paroles shall be ordered by the parole board
12 and shall be signed by the chairperson. Written notice of the order
13 ~~shall~~**MUST** be sent by first-class mail or by electronic means to
14 the prosecuting attorney and the sheriff or other police officer of
15 the municipality or county in which the prisoner was convicted and
16 to the prosecuting attorney and the sheriff or other local police
17 officer of the municipality or county to which the paroled prisoner
18 is sent or is to be sent. The notice ~~shall~~**MUST** be provided ~~within~~
19 **NOT MORE THAN** 10 days after the parole board issues its order to
20 parole the prisoner.

21 (2) A parole order may be rescinded at the discretion of the
22 parole board for cause before the prisoner is released on parole. A
23 parole ~~shall~~**MUST** not be revoked unless an interview with the
24 prisoner is conducted by 1 member of the parole board. The purpose
25 of the interview is to consider and act upon information received
26 by the board after the original parole release decision. A
27 revocation interview ~~shall~~**MUST** be conducted ~~within~~**NOT MORE THAN**

1 45 days after ~~receiving~~**THE BOARD RECEIVED** the new information. ~~At~~
2 ~~least~~**NOT LESS THAN** 10 days before the interview, the parolee ~~shall~~
3 **MUST** receive a copy or summary of the new evidence that is the
4 basis for the interview.

5 (3) A parole order may be amended at the discretion of the
6 parole board for cause. An amendment to a parole order ~~shall~~**MUST**
7 be in writing and is not effective until notice of the amendment is
8 given to the parolee.

9 (4) When a parole order is issued, the order ~~shall~~**MUST**
10 contain the conditions of the parole and ~~shall~~**MUST** specifically
11 provide proper means of supervision of the paroled prisoner in
12 accordance with the rules of the ~~bureau of field services~~**FIELD**
13 **OPERATIONS ADMINISTRATION**.

14 (5) The parole order ~~shall~~**MUST** contain a condition to pay
15 restitution to the victim of the prisoner's crime or the victim's
16 estate if the prisoner was ordered to make restitution under the
17 William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL
18 780.751 to 780.834, or the code of criminal procedure, 1927 PA 175,
19 MCL 760.1 to 777.69.

20 (6) The parole order ~~shall~~**MUST** contain a condition requiring
21 the parolee to pay a parole supervision fee as prescribed in
22 section 36a.

23 (7) The parole order ~~shall~~**MUST** contain a condition requiring
24 the parolee to pay any assessment the prisoner was ordered to pay
25 under section 5 of 1989 PA 196, MCL 780.905.

26 (8) The parole order ~~shall~~**MUST** contain a condition requiring
27 the parolee to pay the minimum state cost prescribed by section 1j

1 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL
2 769.1j, if the minimum state cost has not been paid.

3 (9) If the parolee is required to be registered under the sex
4 offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, the
5 parole order ~~shall~~**MUST** contain a condition requiring the parolee
6 to comply with that act.

7 (10) If a prisoner convicted of violating or conspiring to
8 violate section 7401(2) (a) (i) or (ii) or 7403(2) (a) (i) or (ii) of
9 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, is
10 released on parole, the parole order ~~shall~~**MUST** contain a notice
11 that if the parolee violates or conspires to violate article 7 of
12 the public health code, 1978 PA 368, MCL 333.7101 to 333.7545, and
13 that violation or conspiracy to violate is punishable by
14 imprisonment for 4 or more years, or commits a violent felony
15 during his or her release on parole, parole ~~shall~~**MUST** be revoked.

16 ~~—— (11) A parole order issued for a prisoner subject to
17 disciplinary time may contain a condition requiring the parolee to
18 be housed in a community corrections center or a community
19 residential home for not less than the first 30 days but not more
20 than the first 180 days of his or her term of parole. As used in
21 this subsection, "community corrections center" and "community
22 residential home" mean those terms as defined in section 65a.~~

23 **(11)** ~~(12)~~The parole order ~~shall~~**MUST** contain a condition
24 requiring the parolee to pay the following amounts owed by the
25 prisoner, if applicable:

26 (a) The balance of filing fees and costs ordered to be paid
27 under section 2963 of the revised judicature act of 1961, 1961 PA

1 236, MCL 600.2963.

2 (b) The balance of any filing fee ordered to be paid by a
3 federal court under 28 USC 1915 and any unpaid order of costs
4 assessed against the prisoner.

5 (12) ~~(13)~~—In each case in which payment of restitution is
6 ordered as a condition of parole, a parole officer assigned to a
7 **THE** case shall review the case not less than twice yearly to ensure
8 that restitution is being paid as ordered. The final review ~~shall~~
9 **MUST** be conducted not less than 60 days before the expiration of
10 the parole period. If the parole officer determines that
11 restitution is not being paid as ordered, the parole officer shall
12 file a written report of the violation with the parole board on a
13 form prescribed by the parole board. The report ~~shall~~**MUST** include
14 a statement of the amount of arrearage and any reasons for the
15 arrearage known by the parole officer. The parole board shall
16 immediately provide a copy of the report to the court, the
17 prosecuting attorney, and the victim.

18 (13) ~~(14)~~—If a parolee is required to register under the sex
19 offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, the
20 parole officer shall register the parolee as provided in that act.

21 (14) ~~(15) Beginning August 28, 2006, if~~ **IF** a parolee convicted
22 of violating or conspiring to violate section 520b or 520c of the
23 Michigan penal code, 1931 PA 328, MCL 750.520b and 750.520c, other
24 than a parolee who is subject to lifetime electronic monitoring
25 under section 85, is placed on parole, the parole board may require
26 that the parolee be subject to electronic monitoring. The
27 electronic monitoring required under this subsection ~~shall~~**MUST** be

1 conducted in the same manner, and ~~shall be~~ **IS** subject to the same
2 requirements, as is described in ~~section 85 of this act and section~~
3 520n(2) of the Michigan penal code, 1931 PA 328, MCL 750.520n, **AND**
4 **SECTION 85**, except as follows:

5 (a) The electronic monitoring ~~shall~~ **MUST** continue only for the
6 duration of the term of parole.

7 (b) A violation by the parolee of any requirement prescribed
8 in section ~~520n(2)(a) to (c)~~ **520N(2)** is a violation of a condition
9 of parole, not a felony violation.

10 **(15)** ~~(16)~~ If the parole order contains a condition intended to
11 protect 1 or more named persons, the department shall enter those
12 provisions of the parole order into the corrections management
13 information system, accessible by the law enforcement information
14 network. If the parole board rescinds a parole order described in
15 this subsection, the department within 3 business days shall remove
16 from the corrections management information system the provisions
17 of that parole order.

18 **(16)** ~~(17)~~ Each prisoner who is required to be registered under
19 the sex offenders registration act, 1994 PA 295, MCL 28.721 to
20 28.736, before being released on parole or being released upon
21 completion of his or her maximum sentence, shall provide to the
22 department notice of the location of his or her proposed place of
23 residence or domicile. The department then shall forward that
24 notice of location to the appropriate law enforcement agency as
25 required under section 5(3) of the sex offenders registration act,
26 1994 PA 295, MCL 28.725. A prisoner who refuses to provide notice
27 of the location of his or her proposed place of residence or

1 domicile or knowingly provides an incorrect notice of the location
2 of his or her proposed place of residence or domicile under this
3 subsection is guilty of a felony punishable by imprisonment for not
4 more than 4 years or a fine of not more than \$2,000.00, or both.

5 (17) ~~(18)~~—If a prisoner is serving a sentence for violating
6 section 411i of the Michigan penal code, 1931 PA 328, MCL 750.411i,
7 ~~(aggravated stalking)~~, and if a victim of that crime has registered
8 to receive notices about that prisoner under the William Van
9 Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to
10 780.834, the parole order for that prisoner ~~shall~~**MUST** require that
11 the prisoner's location be monitored by a global positioning
12 monitoring system during the entire period of the prisoner's
13 parole. If, at the time a prisoner described in this subsection is
14 paroled, no victim of the crime has registered to receive notices
15 about that prisoner under the William Van Regenmorter crime
16 victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, but a
17 victim of the crime subsequently registers to receive those
18 notices, the prisoner's order of parole ~~shall~~**MUST** immediately be
19 modified to require that the prisoner's location be monitored by a
20 global positioning system during the balance of the period of that
21 prisoner's parole. As used in this subsection, "global positioning
22 monitoring system" means a system that electronically determines
23 and reports the location of an individual by means of an ankle
24 bracelet transmitter or similar device worn by the individual,
25 which transmits latitude and longitude data to monitoring
26 authorities through global positioning satellite technology but
27 does not include any radio frequency identification technology,

1 global positioning technology, or similar technology that would be
2 implanted in the parolee or would otherwise violate the corporeal
3 body of the parolee.

4 **(18)** ~~(19)~~—The parole order ~~shall~~**MUST** require the parolee to
5 provide written consent to submit to a search of his or her person
6 or property upon demand by a peace officer or parole officer. The
7 written consent ~~shall~~**MUST** include the prisoner's name and date of
8 birth, his or her physical description, the date for release on
9 parole, and the ending date for that parole. The prisoner shall
10 sign the written consent before being released on parole. The
11 department shall promptly enter this condition of parole into the
12 department's corrections management information system or offender
13 management network information system or into a corresponding
14 records management system that is accessible through the law
15 enforcement information network. Consent to a search as provided
16 under this subsection does not authorize a search that is conducted
17 with the sole intent to intimidate or harass.

18 **(19)** ~~(20)~~—As used in this section, "violent felony" means an
19 offense against a person in violation of section 82, 83, 84, 86,
20 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d,
21 520e, 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA
22 328, MCL 750.82, 750.83, 750.84, 750.86, 750.87, 750.88, 750.89,
23 750.316, 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397,
24 750.520b, 750.520c, 750.520d, 750.520e, 750.520g, 750.529,
25 750.529a, and 750.530.

26 Sec. 51. (1) There is created within the department a hearings
27 division. The division is under the direction and supervision of

1 the hearings administrator who is appointed by the director of the
2 department.

3 (2) Except as otherwise provided in this section, the hearings
4 division is responsible for each prisoner hearing the department
5 conducts that may result in the loss by a prisoner of a right,
6 including but not limited to any 1 or more of the following
7 matters:

8 (a) An infraction of a prison rule that may result in punitive
9 segregation, ~~loss of disciplinary credits,~~ or the loss of good
10 time.

11 (b) A security classification that may result in the placement
12 of a prisoner in administrative segregation.

13 (c) A special designation that permanently excludes, by
14 department policy or rule, a person under the jurisdiction of the
15 department from community placement.

16 (d) Visitor restrictions.

17 (e) High or very high assaultive risk classifications.

18 ~~(3) Except as otherwise provided in this section, the hearings~~
19 ~~division is responsible for each prisoner hearing that may result~~
20 ~~in the accumulation of disciplinary time.~~

21 **(3)** ~~(4)~~—The hearings division is not responsible for a
22 prisoner hearing that is conducted for prisoners transferred under
23 section 11a to an institution of another state pursuant to the
24 interstate corrections compact.

25 **(4)** ~~(5)~~—The hearings division is not responsible for a
26 prisoner hearing that is conducted as a result of a minor
27 misconduct charge that would not cause a loss of good time ~~or~~

1 ~~disciplinary credits,~~ or result in placement in punitive
2 segregation.

3 **(5)** ~~(6)~~—Each hearings officer of the department is under the
4 direction and supervision of the hearings division. Each hearings
5 officer hired by the department after October 1, 1979 ~~, shall~~ **MUST**
6 be an attorney.

7 Sec. 65. (1) Under rules promulgated by the director of the
8 department, the assistant director in charge of the ~~bureau of~~
9 correctional facilities **ADMINISTRATION**, except as otherwise
10 provided in this section, may cause the transfer or ~~re-transfer~~
11 **RETRANSFER** of a prisoner from a correctional facility to which **THE**
12 **PRISONER WAS** committed to any other correctional facility, or
13 temporarily to a state institution for medical or surgical
14 treatment. In effecting a transfer, the assistant director **IN**
15 **CHARGE** of the ~~bureau of~~ correctional facilities **ADMINISTRATION** may
16 utilize the services of an executive or employee within the
17 department and of a law enforcement officer of ~~the~~ **THIS** state.

18 ~~—— (2) A prisoner who is subject to disciplinary time and is~~
19 ~~committed to the jurisdiction of the department shall be confined~~
20 ~~in a secure correctional facility for the duration of his or her~~
21 ~~minimum sentence, except for periods when the prisoner is away from~~
22 ~~the secure correctional facility while being supervised by an~~
23 ~~employee of the department or by an employee of a private~~
24 ~~contractor that operates a facility or institution that houses~~
25 ~~prisoners under the jurisdiction of the department for 1 of the~~
26 ~~following purposes:~~

27 ~~—— (a) Visiting a critically ill relative.~~

1 ~~———— (b) Attending the funeral of a relative.~~

2 ~~———— (c) Obtaining medical services not otherwise available at the~~
 3 ~~secure correctional facility.~~

4 ~~———— (d) Participating in a work detail.~~

5 (2) ~~(3)~~ As used in this section, "offender" means a citizen of
 6 the United States or a foreign country who has been convicted of a
 7 crime and been given a sentence in a country other than the country
 8 of which he or she is a citizen. If a treaty is in effect between
 9 the United States and a foreign country, which provides for the
 10 transfer of offenders from the jurisdiction of 1 of the countries
 11 to the jurisdiction of the country of which the offender is a
 12 citizen, and if the offender requests the transfer, the governor of
 13 this state or a person designated by the governor may give the
 14 approval of this state to a transfer of an offender, if the
 15 conditions of the treaty are satisfied.

16 (3) ~~(4)~~ Not less than 45 days before approval of a transfer
 17 ~~pursuant to~~ **UNDER** subsection ~~(3)~~ **(2)** from this state to another
 18 country, the governor, or the governor's designee, shall notify the
 19 sentencing judge and the prosecuting attorney of the county having
 20 original jurisdiction, or their successors in office, of the
 21 request for transfer. The notification ~~shall~~ **MUST** indicate any name
 22 changes of the offender subsequent to sentencing. Within 20 days
 23 after receiving ~~such~~ **THE** notification, the judge or prosecutor may
 24 send to the governor, or the governor's designee, information about
 25 the criminal action against the offender or objections to the
 26 transfer. Objections to the transfer ~~shall~~ **DO** not preclude approval
 27 of the transfer.

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

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

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

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

11 Sec. 65a. (1) Under prescribed conditions, the director may
12 extend the limits of confinement of a prisoner when there is
13 reasonable assurance, after consideration of all facts and
14 circumstances, that the prisoner will not become a menace to
15 society or to the public safety, by authorizing the prisoner to do
16 any of the following:

17 (a) Visit a specifically designated place or places. An
18 extension of limits may be granted only to a prisoner housed in a
19 state correctional facility to permit a visit to a critically ill
20 relative, attendance at the funeral of a relative, or contacting
21 prospective employers. The maximum amount of time a prisoner is
22 eligible for an extension of the limits of confinement under this
23 subdivision ~~shall~~ **MUST** not exceed a cumulative total period of 30
24 days.

25 (b) Obtain medical services not otherwise available to a
26 prisoner housed in a state correctional facility.

27 (c) Work at paid employment, participate in a training or

1 educational program, or participate in a community residential drug
2 treatment program while continuing as a prisoner housed on a
3 voluntary basis at a community corrections center or in a community
4 residential home.

5 (2) The director shall promulgate rules to implement this
6 section.

7 (3) The willful failure of a prisoner to remain within the
8 extended limits of his or her confinement or to return within the
9 time prescribed to an institution or facility designated by the
10 director ~~shall be~~ **IS** considered an escape from custody as provided
11 in section 193 of the Michigan penal code, 1931 PA 328, MCL
12 750.193.

13 (4) Subject to subsection ~~(8)~~, **(7)**, a prisoner ~~, other than a~~
14 ~~prisoner subject to disciplinary time,~~ who is convicted of a crime
15 of violence or any assaultive crime is not eligible for the
16 extensions of the limits of confinement provided in subsection (1)
17 until the minimum sentence imposed for the crime has less than 180
18 days remaining.

19 ~~— (5) Subject to subsection (8), a prisoner subject to~~
20 ~~disciplinary time is not eligible for the extensions of the limits~~
21 ~~of confinement provided in subsection (1) until he or she has~~
22 ~~served the minimum sentence imposed for the crime.~~

23 **(5)** ~~(6) However, notwithstanding subsections~~ **NOTWITHSTANDING**
24 **SUBSECTION** (4), ~~or (5),~~ if the reason for the extension is to visit
25 a critically ill relative, attend the funeral of a relative, or
26 obtain medical services not otherwise available, the director may
27 allow the extension under escort as provided in subsection (1).

1 **(6)** ~~(7)~~—A prisoner serving a sentence for murder in the first
2 degree is not eligible for the extensions of confinement under this
3 section until a parole release date is established by the parole
4 board and in no case before serving 15 calendar years with a good
5 institutional adjustment.

6 **(7)** ~~(8)~~—A prisoner who is convicted of a crime of violence or
7 any assaultive crime, and whose minimum sentence imposed for the
8 crime is 10 years or more, shall not be placed in a community
9 residential home during any portion of his or her sentence.

10 **(8)** ~~(9)~~—As used in this section:

11 (a) "Community corrections center" means a facility either
12 contracted for or operated by the department in which a security
13 staff is on duty 7 days per week, 24 hours per day.

14 (b) "Community residential home" means a location where
15 electronic monitoring of prisoner presence is provided by the
16 department 7 days per week, 24 hours per day, except that the
17 department may waive the requirement that electronic monitoring be
18 provided as to any prisoner who is within 3 months of his or her
19 parole date.

20 (c) "State correctional facility" means a facility or
21 institution that houses a prisoner population under the
22 jurisdiction of the department. State correctional facility does
23 not include a community corrections center or community residential
24 home.

25 Enacting section 1. Sections 33b and 33c of the corrections
26 code of 1953, 1953 PA 232, MCL 791.233b and 791.233c, are repealed
27 effective 90 days after the date this amendatory act is enacted

1 into law.

2 Enacting section 2. This amendatory act takes effect 90 days
3 after the date it is enacted into law.

4 Enacting section 3. This amendatory act does not take effect
5 unless all of the following bills of the 99th Legislature are
6 enacted into law:

7 (a) Senate Bill No. _____ or House Bill No. 5666 (request no.
8 02131'17 a).

9 (b) Senate Bill No. _____ or House Bill No. 5667 (request no.
10 02131'17 b).