

SENATE BILL NO. 1243

December 03, 2020, Introduced by Senator IRWIN and referred to the Committee on Judiciary and Public Safety.

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,
sections 33 and 34 as amended by 2019 PA 14, section 34a as amended
by 2012 PA 259, section 35 as amended by 2019 PA 13, section 36 as
amended by 2012 PA 623, section 51 as amended by 1998 PA 269,
section 65 as amended by 2019 PA 16, and section 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
4 age or less. If the department establishes or contracts with a
5 private vendor for the operation of a youth correctional facility,
6 following intake processing in a department operated facility, the
7 department shall house all male prisoners who are 16 years of age
8 or less at the youth correctional facility unless the department
9 determines that the prisoner should be housed at a different
10 facility for reasons of security, safety, or because of the
11 prisoner's specialized physical or mental health care needs.

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

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

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

25 (5) The department may establish and operate the youth
26 correctional facility or may contract on behalf of the state with a
27 private vendor for the construction or operation, or both, of the

1 youth correctional facility. If the department contracts with a
2 private vendor to construct, rehabilitate, develop, renovate, or
3 operate any existing or anticipated facility ~~pursuant to~~**under** this
4 section, the department shall require a written certification from
5 the private vendor regarding all of the following:

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

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

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

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

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

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

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

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

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

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

29 (9) The youth correctional facility ~~shall~~ **must** be open to

1 visits during all business hours, and during nonbusiness hours
2 unless an emergency prevents it, by any elected state senator or
3 state representative.

4 (10) Once each year, the department shall report on the
5 operation of the facility. Copies of the report ~~shall~~**must** be
6 submitted to the chairpersons of the house and senate committees
7 responsible for legislation on corrections or judicial issues, and
8 to the clerk of the house of representatives and the secretary of
9 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~~**must** 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
28 ~~GED~~**high school equivalency** certificate, and shall provide those
29 classes.

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

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

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

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

(b) Except as provided in ~~section~~**sections** 34a and ~~section~~ 35(10), a parole must not be granted to a prisoner ~~other than a prisoner subject to disciplinary time~~ until the prisoner has served the minimum term imposed by the court less allowances for good time or special good time to which the prisoner may be entitled by

1 statute, except that a prisoner ~~other than a prisoner subject to~~
2 ~~disciplinary time~~ is eligible for parole before the expiration of
3 his or her minimum term of imprisonment if the sentencing judge, or
4 the judge's successor in office, gives written approval of the
5 parole of the prisoner before the expiration of the minimum term of
6 imprisonment.

7 ~~(e) Except as provided in section 34a and section 35(10), and~~
8 ~~notwithstanding the provisions of subdivision (b), a parole must~~
9 ~~not be granted to a prisoner other than a prisoner subject to~~
10 ~~disciplinary time sentenced for the commission of a crime described~~
11 ~~in section 33b(a) to (cc) until the prisoner has served the minimum~~
12 ~~term imposed by the court less an allowance for disciplinary~~
13 ~~credits as provided in section 33(5) of 1893 PA 118, MCL 800.33. A~~
14 ~~prisoner described in this subdivision is not eligible for special~~
15 ~~parole.~~

16 ~~(d) Except as provided in section 34a and section 35(10), a~~
17 ~~parole must not be granted to a prisoner subject to disciplinary~~
18 ~~time until the prisoner has served the minimum term imposed by the~~
19 ~~court.~~

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

26 (d) ~~(f)~~ Except as provided in section 35(10), a prisoner whose
27 minimum term of imprisonment is 2 years or more must not be
28 released on parole unless he or she has either earned a high school
29 diploma or a high school equivalency certificate. The director of

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

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

24 (3) The parole board may promulgate rules under the
25 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
26 24.328, that are not inconsistent with this act with respect to
27 conditions imposed upon prisoners paroled under this act.

28 Sec. 34. (1) Except for a prisoner granted parole under
29 section 35(10) or as provided in section 34a, a prisoner sentenced

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

8 ~~(2) Except for a prisoner granted parole under section 35(10)~~
9 ~~or as provided in section 34a, a prisoner subject to disciplinary~~
10 ~~time sentenced to an indeterminate sentence and confined in a state~~
11 ~~correctional facility with a minimum in terms of years is subject~~
12 ~~to the jurisdiction of the parole board when the prisoner has~~
13 ~~served a period of time equal to the minimum sentence imposed by~~
14 ~~the court for the crime of which he or she was convicted.~~

15 (2) ~~(3)~~ Except for a prisoner granted parole under section
16 35(10), if a prisoner ~~other than a prisoner subject to disciplinary~~
17 ~~time~~ is sentenced for consecutive terms, whether received at the
18 same time or at any time during the life of the original sentence,
19 the parole board has jurisdiction over the prisoner for purposes of
20 parole when the prisoner has served the total time of the added
21 minimum terms, less the good time ~~and disciplinary credits~~ allowed
22 by statute. The maximum terms of the sentences must be added to
23 compute the new maximum term under this subsection, and discharge
24 must be issued only after the total of the maximum sentences has
25 been served less good time, ~~and disciplinary credits~~, unless the
26 prisoner is paroled and discharged upon satisfactory completion of
27 the parole.

28 ~~(4) Except for a prisoner granted parole under section 35(10),~~
29 ~~if a prisoner subject to disciplinary time is sentenced for~~

~~consecutive terms, whether received at the same time or at any time during the life of the original sentence, the parole board has jurisdiction over the prisoner for purposes of parole when the prisoner has served the total time of the added minimum terms. The maximum terms of the sentences must be added to compute the new maximum term under this subsection, and discharge must be issued only after the total of the maximum sentences has been served, unless the prisoner is paroled and discharged upon satisfactory completion of the parole.~~

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

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

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

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

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

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

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

(f) Any other violation for which parole eligibility is

1 expressly denied under state law.

2 (5) ~~(7)~~ Except for a prisoner granted parole under section
3 35(10), a prisoner sentenced to imprisonment for life, other than a
4 prisoner described in subsection ~~(6)~~, ~~(4)~~, is subject to the
5 jurisdiction of the parole board and may be placed on parole
6 according to the conditions prescribed in subsection ~~(8)~~ ~~(6)~~ if he
7 or she meets any of the following criteria:

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

12 (b) Except as provided in subsection ~~(12)~~, ~~(10)~~, the prisoner
13 has served 20 calendar years of a sentence for violating, or
14 attempting or conspiring to violate, section 7401(2) (a) (i) of the
15 public health code, 1978 PA 368, MCL 333.7401, and has another
16 conviction for a serious crime.

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

22 (6) ~~(8)~~ A parole granted to a prisoner under subsection ~~(7)~~
23 (5) is subject to the following conditions:

24 (a) At the conclusion of 10 calendar years of the prisoner's
25 sentence and thereafter as determined by the parole board until the
26 prisoner is paroled, discharged, or deceased, and in accordance
27 with the procedures described in subsection ~~(9)~~, ~~(7)~~, 1 member of
28 the parole board shall interview the prisoner. The interview
29 schedule prescribed in this subdivision applies to all prisoners to

1 whom subsection ~~(7)~~—(5) applies, regardless of the date on which
2 they were sentenced.

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

12 (c) A decision to grant or deny parole to the prisoner must
13 not be made until after a public hearing held in the manner
14 prescribed for pardons and commutations in sections 44 and 45.
15 Notice of the public hearing must be given to the sentencing judge,
16 or the judge's successor in office. Parole must not be granted if
17 the sentencing judge files written objections to the granting of
18 the parole within 30 days of receipt of the notice of hearing, but
19 the sentencing judge's written objections bar the granting of
20 parole only if the sentencing judge is still in office in the court
21 before which the prisoner was convicted and sentenced. A sentencing
22 judge's successor in office may file written objections to the
23 granting of parole, but a successor judge's objections must not bar
24 the granting of parole under subsection ~~(7)~~—(5). If written
25 objections are filed by either the sentencing judge or the judge's
26 successor in office, the objections must be made part of the
27 prisoner's file.

28 (d) A parole granted under subsection ~~(7)~~—(5) must be for a
29 period of not less than 4 years and subject to the usual rules

1 pertaining to paroles granted by the parole board. A parole granted
 2 under subsection ~~(7)~~ **(5)** is not valid until the transcript of the
 3 record is filed with the attorney general whose certification of
 4 receipt of the transcript must be returned to the office of the
 5 parole board within 5 days. Except for medical records protected
 6 under section 2157 of the revised judicature act of 1961, 1961 PA
 7 236, MCL 600.2157, the file of a prisoner granted a parole under
 8 subsection ~~(7)~~ **(5)** is a public record.

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

11 (a) The prisoner must be given written notice, not less than
 12 30 days before the interview date, stating that the interview will
 13 be conducted.

14 (b) The prisoner may be represented at the interview by an
 15 individual of his or her choice. The representative must not be
 16 another prisoner. A prisoner is not entitled to appointed counsel
 17 at public expense. The prisoner or representative may present
 18 relevant evidence in favor of holding a public hearing as allowed
 19 in subsection ~~(8)(e)~~ **(6)(c)**.

20 **(8)** ~~(10)~~—In determining whether a prisoner convicted of
 21 violating, or attempting or conspiring to violate, section
 22 7401(2)(a)(i) of the public health code, 1978 PA 368, MCL 333.7401,
 23 and sentenced to imprisonment for life before October 1, 1998 is to
 24 be released on parole, the parole board shall consider all of the
 25 following:

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

29 (b) Whether the violation was committed by the individual in

1 concert with 5 or more other individuals.

2 (c) Any of the following:

3 (i) Whether the individual was a principal administrator,
4 organizer, or leader of an entity that the individual knew or had
5 reason to know was organized, in whole or in part, to commit
6 violations of section 7401 or 7403 of the public health code, 1978
7 PA 368, MCL 333.7401 and 333.7403, and whether the violation for
8 which the individual was convicted was committed to further the
9 interests of that entity.

10 (ii) Whether the individual was a principal administrator,
11 organizer, or leader of an entity that the individual knew or had
12 reason to know committed violations of section 7401 or 7403 of the
13 public health code, 1978 PA 368, MCL 333.7401 and 333.7403, and
14 whether the violation for which the individual was convicted was
15 committed to further the interests of that entity.

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

18 (iv) Whether the violation involved the delivery of a
19 controlled substance to an individual less than 17 years of age or
20 possession with intent to deliver a controlled substance to an
21 individual less than 17 years of age.

22 **(9)** ~~(11)~~—Except as provided in subsection ~~(19)~~ **(17)** and
23 section 34a, a prisoner's release on parole is discretionary with
24 the parole board. The action of the parole board in granting a
25 parole is appealable by the prosecutor of the county from which the
26 prisoner was committed or the victim of the crime for which the
27 prisoner was convicted. The appeal must be to the circuit court in
28 the county from which the prisoner was committed, by leave of the
29 court.

1 **(10)** ~~(12)~~ If the sentencing judge, or his or her successor in
 2 office, determines on the record that a prisoner described in
 3 subsection ~~(7) (b) or (c)~~ **(5) (b) or (c)** sentenced to imprisonment
 4 for life for violating, or attempting or conspiring to violate,
 5 section 7401(2) (a) (i) of the public health code, 1978 PA 368, MCL
 6 333.7401, has cooperated with law enforcement, the prisoner is
 7 subject to the jurisdiction of the parole board and may be released
 8 on parole as provided in subsection ~~(7) (b) or (c)~~ **(5) (b) or (c)** 2-
 9 1/2 years earlier than the time otherwise indicated in subsection
 10 ~~(7) (b) or (c)~~ **(5) (b) or (c)**. The prisoner is considered to have
 11 cooperated with law enforcement if the court determines on the
 12 record that the prisoner had no relevant or useful information to
 13 provide. The court shall not make a determination that the prisoner
 14 failed or refused to cooperate with law enforcement on grounds that
 15 the defendant exercised his or her constitutional right to trial by
 16 jury. If the court determines at sentencing that the defendant
 17 cooperated with law enforcement, the court shall include its
 18 determination in the judgment of sentence.

19 **(11)** ~~(13)~~ Except for a prisoner granted parole under section
 20 35(10) and notwithstanding ~~subsections~~ **subsection** (1), ~~and (2)~~, a
 21 prisoner convicted of violating, or attempting or conspiring to
 22 violate, section 7401(2) (a) (i) or 7403(2) (a) (i) of the public health
 23 code, 1978 PA 368, MCL 333.7401 and 333.7403, whose offense
 24 occurred before March 1, 2003, and who was sentenced to a term of
 25 years, is eligible for parole after serving 20 years of the
 26 sentence imposed for the violation if the individual has another
 27 serious crime or 17-1/2 years of the sentence if the individual
 28 does not have another conviction for a serious crime, or after
 29 serving the minimum sentence imposed for that violation, whichever

1 is less.

2 **(12)** ~~(14)~~ Except for a prisoner granted parole under section
3 35(10) and notwithstanding ~~subsections~~ **subsection** (1), and ~~(2)~~, a
4 prisoner who was convicted of violating, or attempting or
5 conspiring to violate, section 7401(2) (a) (*ii*) or 7403(2) (a) (*ii*) of
6 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403,
7 whose offense occurred before March 1, 2003, and who was sentenced
8 according to those sections as they existed before March 1, 2003,
9 is eligible for parole after serving the minimum of each sentence
10 imposed for that violation or 10 years of each sentence imposed for
11 that violation, whichever is less.

12 **(13)** ~~(15)~~ Except for a prisoner granted parole under section
13 35(10) and notwithstanding ~~subsections~~ **subsection** (1), and ~~(2)~~, a
14 prisoner who was convicted of violating, or attempting or
15 conspiring to violate, section 7401(2) (a) (*iii*) or 7403(2) (a) (*iii*) of
16 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403,
17 whose offense occurred before March 1, 2003, and who was sentenced
18 according to those sections as they existed before March 1, 2003,
19 is eligible for parole after serving the minimum of each sentence
20 imposed for that violation or 5 years of each sentence imposed for
21 that violation, whichever is less.

22 **(14)** ~~(16)~~ Except for a prisoner granted parole under section
23 35(10) and notwithstanding ~~subsections~~ **subsection** (1), and ~~(2)~~, a
24 prisoner who was convicted of violating, or attempting or
25 conspiring to violate, section 7401(2) (a) (*iv*) or 7403(2) (a) (*iv*) of
26 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403,
27 whose offense occurred before March 1, 2003, who was sentenced
28 according to those sections of law as they existed before March 1,
29 2003 to consecutive terms of imprisonment for 2 or more violations

of section 7401(2)(a) or 7403(2)(a) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, is eligible for parole after serving 1/2 of the minimum sentence imposed for each violation of section 7401(2)(a)(iv) or 7403(2)(a)(iv) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403. This subsection applies only to sentences imposed for violations of section 7401(2)(a)(iv) or 7403(2)(a)(iv) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, and does not apply if the sentence was imposed for a conviction for a new offense committed while the individual was on probation or parole.

(15) ~~(17)~~ Except for a prisoner granted parole under section 35(10) and notwithstanding ~~subsections~~ **subsection** (1), ~~and (2)~~, a prisoner who was convicted of violating, or attempting or conspiring to violate, section 7401(2)(a)(ii) or (iii) or 7403(2)(a)(ii) or (iii) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, who had a prior conviction for a violation of section 7401(2)(a)(ii) or (iii) or 7403(2)(a)(ii) or (iii) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, and who was sentenced to life without parole under section 7413(1) of the public health code, 1978 PA 368, MCL 333.7413, according to that section as it existed before March 28, 2018 is eligible for parole after serving 5 years of each sentence imposed for that violation.

(16) ~~(18)~~ The parole board shall provide notice to the prosecuting attorney of the county in which the prisoner was convicted before granting parole to the prisoner under subsection ~~(13), (14), (15), (16), or (17)~~ **(11), (12), (13), (14), or (15)** or under section 35(10). The parole board shall provide the relevant medical records to the prosecuting attorney of the county in which the prisoner was convicted for a prisoner being considered for

1 parole under section 35(10) at the same time the parole board
 2 provides the notice required under this subsection. The parole
 3 board shall also provide notice to any known victim or, in the case
 4 of a homicide, the victim's immediate family, that it is
 5 considering a prisoner for parole under section 35(10) at the same
 6 time it provides notice to the prosecuting attorney under this
 7 subsection.

8 **(17)** ~~(19)~~—The prosecuting attorney or victim or, in the case
 9 of a homicide, the victim's immediate family, may object to the
 10 parole board's decision to recommend parole by filing a motion in
 11 the circuit court in the county in which the prisoner was convicted
 12 within 30 days of receiving notice under subsection ~~(18)~~.—**(16)**.
 13 Upon notification under subsection ~~(18)~~—**(16)** and request by the
 14 victim, or, in the case of a homicide, the victim's immediate
 15 family, the prosecuting attorney must confer with the victim, —or,
 16 in the case of a homicide, the victim's immediate family, before
 17 making a decision regarding whether or not to object to the parole
 18 board's determination. A motion filed under this subsection must be
 19 heard by the sentencing judge or the judge's successor in office.
 20 The prosecuting attorney shall inform the parole board if a motion
 21 was filed under this subsection. A prosecutor who files a motion
 22 under this subsection may seek an independent medical examination
 23 of the prisoner being considered for parole under section 35(10).
 24 If an appeal is initiated under this subsection, a subsequent
 25 appeal under subsection ~~(11)~~—**(9)** may not be initiated upon the
 26 granting of parole.

27 **(18)** ~~(20)~~—Both of the following apply to a hearing conducted
 28 on a motion filed under subsection ~~(19)~~÷**(17)** :

29 (a) The prosecutor and the parole board may present evidence

1 in support of or in opposition to the determination that a prisoner
2 is medically frail, including the results of any independent
3 medical examination.

4 (b) The sentencing judge or the judge's successor shall
5 determine whether the prisoner is eligible for parole as a result
6 of being medically frail.

7 (19) ~~(21)~~—The decision of the sentencing judge or the judge's
8 successor on a motion filed under subsection ~~(19)~~—(17) is binding
9 on the parole board with respect to whether a prisoner must be
10 considered medically frail or not. However, the decision of the
11 sentencing judge or the judge's successor is subject to appeal by
12 leave to the court of appeals granted to the department, the
13 prosecuting attorney, or the victim or victim's immediate family in
14 the case of a homicide.

15 (20) ~~(22)~~—As used in this section:

16 (a) "Medically frail" means that term as defined in section
17 35(22).

18 (b) "Serious crime" means violating or conspiring to violate
19 article 7 of the public health code, 1978 PA 368, MCL 333.7101 to
20 333.7545, that is punishable by imprisonment for more than 4 years,
21 or an offense against a person in violation of section 83, 84, 86,
22 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d,
23 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA 328,
24 MCL 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.316,
25 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b,
26 750.520c, 750.520d, 750.520g, 750.529, 750.529a, and 750.530.

27 (c) "State correctional facility" means a facility that houses
28 prisoners committed to the jurisdiction of the department.

29 Sec. 34a. (1) A prisoner sentenced to an indeterminate term of

1 imprisonment under the jurisdiction of the department, regardless
2 of when he or she was sentenced, ~~shall~~**must** be considered by the
3 department for placement in a special alternative incarceration
4 unit established under section 3 of the special alternative
5 incarceration act, 1988 PA 287, MCL 798.13, if the prisoner meets
6 the eligibility requirements of subsections (2) and (3). For a
7 prisoner committed to the jurisdiction of the department on or
8 after March 19, 1992, the department shall determine before the
9 prisoner leaves the reception center whether the prisoner is
10 eligible for placement in a special alternative incarceration unit,
11 although actual placement may take place at a later date. A
12 determination of eligibility does not guarantee placement in a
13 unit.

14 (2) To be eligible for placement in a special alternative
15 incarceration unit, the prisoner ~~shall~~**must** meet all of the
16 following requirements:

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

19 (i) Twenty-four months or less for a violation of section 110
20 or 110a of the Michigan penal code, 1931 PA 328, MCL 750.110 and
21 750.110a, if the violation involved any occupied dwelling house.

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

23 (b) The prisoner has never previously been placed in a special
24 alternative incarceration unit as either a prisoner or a
25 probationer, unless he or she was removed from a special
26 alternative incarceration unit for medical reasons as specified in
27 subsection (7).

28 (c) The prisoner is physically able to participate in the
29 program.

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

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

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

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

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

10 (i) A violation of section 49, ~~80, 83~~, 89, 91, 157b, 158, 207,
11 260, 316, 317, 327, 328, 335a, 338, 338a, 338b, 349, 349a, 350,
12 422, 436, 511, 520b, 529, 529a, 531, or 544 of the Michigan penal
13 code, 1931 PA 328, MCL 750.49, ~~750.80, 750.83~~, 750.89, 750.91,
14 750.157b, 750.158, 750.207, 750.260, 750.316, 750.317, 750.327,
15 750.328, 750.335a, 750.338, 750.338a, 750.338b, 750.349, 750.349a,
16 750.350, 750.422, 750.436, 750.511, 750.520b, 750.529, 750.529a,
17 750.531, and 750.544, **or former section 80 of that act.**

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

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

23 (iv) A violation of section 86, 112, 136b, 193, 195, 213, ~~319~~,
24 321, 329, or 397 of the Michigan penal code, 1931 PA 328, MCL
25 750.86, 750.112, 750.136b, 750.193, 750.195, 750.213, ~~750.319~~,
26 750.321, 750.329, and 750.397, **or former section 319 of that act.**

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

28 (vi) An attempt to commit a crime described in subparagraphs
29 (i) to (v).

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

4 (viii) A crime for which the prisoner was punished under section
5 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927
6 PA 175, MCL 769.10, 769.11, and 769.12.

7 (3) A prisoner who is serving a sentence for a violation of
8 section 7401 or 7403 of the public health code, 1978 PA 368, MCL
9 333.7401 and 333.7403, and who has previously been convicted for a
10 violation of section 7401 or 7403(2)(a), (b), or (e) of the public
11 health code, 1978 PA 368, MCL 333.7401 and 333.7403, is not
12 eligible for placement in a special alternative incarceration unit
13 until after he or she has served the equivalent of the mandatory
14 minimum sentence prescribed by statute for that violation.

15 (4) If the sentencing judge prohibited a prisoner's
16 participation in the special alternative incarceration program in
17 the judgment of sentence, that prisoner ~~shall~~**must** not be placed in
18 a special alternative incarceration unit. If the sentencing judge
19 permitted the prisoner's participation in the special alternative
20 incarceration program in the judgment of sentence, that prisoner
21 may be placed in a special alternative incarceration unit if the
22 department determines that the prisoner also meets the requirements
23 of subsections (2) and (3). If the sentencing judge neither
24 prohibited nor permitted a prisoner's participation in the special
25 alternative incarceration program in the judgment of sentence, and
26 the department determines that the prisoner meets the eligibility
27 requirements of subsections (2) and (3), the department shall
28 notify the judge or the judge's successor, the prosecuting attorney
29 for the county in which the prisoner was sentenced, and any victim

1 of the crime for which the prisoner was committed if the victim has
2 submitted to the department a written request for any notification
3 under section 19(1) of the William Van Regenmorter crime victim's
4 rights act, 1985 PA 87, MCL 780.769, of the proposed placement of
5 the prisoner in the special alternative incarceration unit. The
6 notices ~~shall~~**must** be sent not later than 30 days before placement
7 is intended to occur. The department shall not place the prisoner
8 in a special alternative incarceration unit unless the sentencing
9 judge, or the judge's successor, notifies the department, in
10 writing, that he or she does not object to the proposed placement.
11 In making the decision on whether or not to object, the judge, or
12 judge's successor, shall review any impact statement submitted
13 under section 14 of the William Van Regenmorter crime victim's
14 rights act, 1985 PA 87, MCL 780.764, by the victim or victims of
15 the crime of which the prisoner was convicted.

16 (5) Notwithstanding subsection (4), a prisoner ~~shall~~**must** not
17 be placed in a special alternative incarceration unit unless the
18 prisoner consents to that placement and agrees that the department
19 may suspend or restrict privileges generally afforded other
20 prisoners including, but not limited to, the areas of visitation,
21 property, mail, publications, commissary, library, and telephone
22 access. However, the department may not suspend or restrict the
23 prisoner's access to the prisoner grievance system.

24 (6) Notwithstanding subsections (4) and (5), a prisoner ~~shall~~
25 **must** not be placed in a special alternative incarceration unit
26 unless all of the following conditions are met for the prisoner at
27 the special alternative incarceration unit:

28 (a) Upon entry into the special alternative incarceration
29 unit, a validated risk and need assessment from which a prisoner-

1 specific transition accountability plan and prisoner-specific
2 programming during program enrollment are utilized.

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

6 (c) Prisoner discharge planning is utilized.

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

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

23 (8) Upon certification of completion of the special
24 alternative incarceration program, the prisoner ~~shall~~**must** be
25 placed on parole. A prisoner paroled under this section ~~shall~~**must**
26 have conditions of parole as determined appropriate by the parole
27 board and ~~shall~~**must** be placed on parole for not less than 18
28 months, or the balance of the prisoner's minimum sentence,
29 whichever is greater, with ~~at least~~**not less than** the first 120

1 days under intensive supervision.

2 (9) The parole board may suspend or revoke parole for any
 3 prisoner paroled under this section subject to sections 39a and
 4 40a. ~~For a prisoner other than a prisoner subject to disciplinary~~
 5 ~~time, if~~ **If** parole is revoked before the expiration of the
 6 prisoner's minimum sentence, less ~~disciplinary credits,~~ **good time**,
 7 the parole board shall forfeit, under section ~~33(13)~~ **33(12)** of 1893
 8 PA 118, MCL 800.33, all ~~disciplinary credits that were~~ **good time**
 9 accumulated during special alternative incarceration, and the
 10 prisoner ~~shall~~ **must** be considered for parole under section 35.

11 (10) The department shall report annually to the legislature
 12 the impact of the operation of this section, including a report
 13 concerning recidivism.

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

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

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

23 (12) Each prisoner or probationer placed in the special
 24 alternative incarceration program shall fully participate in the
 25 Michigan prisoner reentry initiative.

26 Sec. 35. (1) The release of a prisoner on parole must be
 27 granted solely upon the initiative of the parole board. There is no
 28 entitlement to parole. The parole board may grant a parole without
 29 interviewing the prisoner if, after evaluating the prisoner

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

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

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

25 (2) If, after evaluating a prisoner according to the parole
26 guidelines, the parole board determines that the prisoner has a low
27 probability of being paroled and the parole board therefore does
28 not intend to parole the prisoner, the parole board is not required
29 to interview the prisoner before denying parole to the prisoner.

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

3 (a) A prisoner's marital history.

4 (b) Prior arrests not resulting in conviction or adjudication
5 of delinquency.

6 (4) If an interview is to be conducted, the prisoner must be
7 sent a notice of intent to conduct an interview not less than 1
8 month before the date of the interview. The notice must state the
9 specific issues and concerns that will be discussed at the
10 interview and that may be a basis for a denial of parole. The
11 parole board shall not deny parole based on reasons other than
12 those stated in the notice of intent to conduct an interview except
13 for good cause stated to the prisoner at or before the interview
14 and in the written explanation required by subsection (20).

15 (5) Except for good cause, the parole board member conducting
16 the interview shall not have cast a vote for or against the
17 prisoner's release before conducting the current interview. Before
18 the interview, the parole board member who is to conduct the
19 interview shall review pertinent information relative to the notice
20 of intent to conduct an interview.

21 (6) A prisoner may waive the right to an interview by 1 member
22 of the parole board. The waiver of the right to be interviewed must
23 be in writing and given not more than 30 days after the notice of
24 intent to conduct an interview is issued. During the interview held
25 under a notice of intent to conduct an interview, the prisoner may
26 be represented by an individual of his or her choice. The
27 representative shall not be another prisoner or an attorney. A
28 prisoner is not entitled to appointed counsel at public expense.
29 The prisoner or representative may present relevant evidence in

1 support of release.

2 (7) ~~At least~~ **Not less than** 90 days before the expiration of
 3 the prisoner's minimum sentence less applicable good time ~~and~~
 4 ~~disciplinary credits for a prisoner eligible for good time or~~
 5 ~~disciplinary credits, or at least 90 days before the expiration of~~
 6 ~~the prisoner's minimum sentence for a prisoner subject to~~
 7 ~~disciplinary time, or~~ **90 days before** the expiration of a 12-month
 8 continuance, ~~for any prisoner, or at the request of the parole~~
 9 board for a prisoner being considered for parole under subsection
 10 (10), the appropriate institutional staff shall prepare a parole
 11 eligibility report. The parole eligibility report is considered
 12 pertinent information for purposes of subsection (5). The report
 13 must include all of the following:

14 (a) A statement of all major misconduct charges of which the
 15 prisoner was found guilty and the punishment served for the
 16 misconduct.

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

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

20 (d) Whether the prisoner fully cooperated with this state by
 21 providing complete financial information as required under section
 22 3a of the state correctional facility reimbursement act, 1935 PA
 23 253, MCL 800.403a.

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

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

29 **(f)** ~~(g)~~ The result on any validated risk assessment

1 instrument.

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

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

9 (10) Except for a prisoner who was convicted of any crime that
10 is punishable by a term of life imprisonment without parole or of a
11 violation of section 520b of the Michigan penal code, 1931 PA 328,
12 MCL 750.520b, the parole board may grant a medical parole for a
13 prisoner determined to be medically frail. A decision to grant a
14 medical parole must be initiated on the recommendation of the
15 bureau of health care services. If the bureau of health care
16 services believes that the prisoner is medically frail, the bureau
17 shall utilize a specialist in the appropriate field of medicine,
18 who is not employed by the department, to evaluate the condition of
19 the prisoner and to report on that condition to the bureau. The
20 parole board, in consultation with the bureau of health care
21 services, shall determine whether the prisoner is medically frail.
22 If the parole board determines that a prisoner is medically frail
23 and is going to be considered for parole under this subsection, the
24 parole board shall provide the notice and medical records required
25 under section ~~34(18)~~. **34(16)**. Unless the prosecutor of the county
26 from which the prisoner was committed files a motion under section
27 ~~34(19)~~, **34(17)**, the parole board may grant parole to a prisoner who
28 is determined to be medically frail. If a motion is filed under
29 section ~~34(19)~~ **34(17)** and the court finds that the prisoner is

1 eligible for parole as a result of being medically frail, and if no
 2 additional appeals are pending, the parole board may grant parole
 3 to the prisoner under this subsection. The requirements of sections
 4 33(1)(b) ~~, (c), and~~ (d), ~~and (f),~~ 33b, and 34(1), (2), ~~(3), (4),~~
 5 ~~(7), (5), (11), (12),~~ (13), (14), **and** (15) ~~, (16), and (17)~~ do not
 6 apply to a parole granted under this subsection.

7 (11) The following conditions apply to a parole granted under
 8 subsection (10):

9 (a) A prisoner must only be released on parole under
 10 subsection (10) if he or she agrees to all of the following:

11 (i) His or her placement, or, if the parolee is unable to
 12 consent because of the parolee's physical or mental health
 13 condition, an individual legally entitled to agree to the parolee's
 14 placement agrees that the parolee be placed, in a medical facility
 15 approved by the parole board where medical care and treatment can
 16 be provided.

17 (ii) To the release of his or her medical records that are
 18 directly relevant to the condition or conditions rendering the
 19 prisoner medically frail to the prosecutor and sentencing or
 20 successor judge of the county from which the prisoner was committed
 21 before the parole board determines whether or not to grant the
 22 prisoner parole under subsection (10).

23 (iii) An independent medical exam if sought by the prosecutor of
 24 the county from which the prisoner was committed as provided under
 25 section ~~34(19)~~ **34(17)**. If possible, this independent medical exam
 26 must occur at a facility of the department. The reasonable costs of
 27 this independent medical exam must be paid for by the department.

28 (b) The parolee shall adhere to the terms of his or her parole
 29 for the length of his or her parole term.

1 (c) The parole must be for a term not less than the time
2 necessary to reach the prisoner's earliest release date.

3 (d) A parolee who violates the terms of his or her parole or
4 is determined to no longer meet the definition of medically frail
5 may be transferred to a setting more appropriate for the medical
6 needs of the parolee or be subject to the parole violation process
7 under sections 38, 39, 39a, and 40a as determined by the parole
8 board and the department.

9 (e) The parolee must only be placed in a medical facility that
10 agrees to accept the parolee and that is agreed upon by the parolee
11 as described in subdivision (a) (i).

12 (12) The parolee or an individual legally entitled to agree to
13 the parolee's placement under subsection (11) (a) (i), other than the
14 medical facility, shall immediately inform the parole board if any
15 of the following occur:

16 (a) The parolee is no longer eligible for care at the medical
17 facility at which he or she was placed.

18 (b) The parolee must be moved to another location for medical
19 care.

20 (c) The parolee is no longer at the medical facility approved
21 by the parole board.

22 (d) The parolee no longer needs the level of care that
23 resulted in the parolee's placement at the medical facility.

24 (13) The parole board shall immediately notify the prosecutor
25 for the county in which the offender was convicted and the
26 sentencing or successor judge if the parolee is no longer eligible
27 for care or no longer needs the level of care for which the
28 prisoner was placed at the medical facility.

29 (14) The department shall not retain authority over the

1 medical treatment plan for a prisoner granted parole under
2 subsection (10) and a prisoner granted parole under subsection (10)
3 must have full patient rights at the medical facility where he or
4 she is placed.

5 (15) The department and the parole board shall ensure that the
6 placement and terms and conditions of a parole granted under
7 subsection (10) do not violate any other state or federal
8 regulations.

9 (16) A medical facility housing parolees granted parole under
10 subsection (10) must be operated in a manner that ensures the
11 safety of the residents of the medical facility.

12 (17) A parolee granted parole under subsection (10) and placed
13 in a medical facility has the same patient rights and
14 responsibilities as any other individual who is a resident of or
15 has been admitted to the medical facility. The medical facility is
16 not responsible for the enforcement of conditions of parole or the
17 reporting of violations of conditions of parole for any parolee
18 placed in the medical facility. The medical facility shall comply
19 with state and federal laws and regulations that protect resident
20 rights and state and federal laws and regulations for skilled
21 nursing facilities, regardless of the conditions of parole imposed
22 on a resident parolee.

23 (18) The process for a parole determination under subsection
24 (10) does not change or affect any of the rights afforded to a
25 victim under the William Van Regenmorter crime victim's rights act,
26 1985 PA 87, MCL 780.751 to 780.834.

27 (19) The department shall file a petition to the appropriate
28 court under section 434 of the mental health code, 1974 PA 258, MCL
29 330.1434, for any prisoner being paroled or being released after

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

9 (20) When the parole board makes a final determination not to
10 release a prisoner, the parole board shall provide the prisoner
11 with a written explanation of the reason for denial and, if
12 appropriate, specific recommendations for corrective action the
13 prisoner may take to facilitate release.

14 (21) This section does not apply to the placement on parole of
15 a person in conjunction with special alternative incarceration
16 under section 34a(7).

17 (22) As used in this section:

18 (a) "Activities of daily living" means basic personal care and
19 everyday activities as described in 42 CFR 441.505, including, but
20 not limited to, tasks such as eating, toileting, grooming,
21 dressing, bathing, and transferring from 1 physical position to
22 another, including, but not limited to, moving from a reclining
23 position to a sitting or standing position.

24 (b) "Medical facility" means a hospital, hospice, nursing
25 home, or other housing accommodation providing medical treatment
26 suitable to the condition or conditions rendering the parolee
27 medically frail.

28 (c) "Medically frail" describes an individual who is a minimal
29 threat to society as a result of his or her medical condition, who

1 has received a risk score of low on a validated risk assessment,
2 whose recent conduct in prison indicates he or she is unlikely to
3 engage in assaultive conduct, and who has 1 or both of the
4 following:

5 (i) A permanent or terminal physical disability or serious and
6 complex medical condition resulting in the inability to do 1 or
7 more of the following without personal assistance:

8 (A) Walk.

9 (B) Stand.

10 (C) Sit.

11 (ii) A permanent or terminal disabling mental disorder,
12 including dementia, Alzheimer's, or a similar degenerative brain
13 disorder that results in the need for nursing home level of care,
14 and a significantly impaired ability to perform 2 or more
15 activities of daily living.

16 Sec. 36. (1) All paroles ~~shall~~**must** be ordered by the parole
17 board and ~~shall~~**must** be signed by the chairperson. Written notice
18 of the order ~~shall~~**must** be sent by first-class mail or by
19 electronic means to the prosecuting attorney and the sheriff or
20 other police officer of the municipality or county in which the
21 prisoner was convicted and to the prosecuting attorney and the
22 sheriff or other local police officer of the municipality or county
23 to which the paroled prisoner is sent or is to be sent. The notice
24 ~~shall~~**must** be provided ~~within~~**not more than** 10 days after the
25 parole board issues its order to parole the prisoner.

26 (2) A parole order may be rescinded at the discretion of the
27 parole board for cause before the prisoner is released on parole. A
28 parole ~~shall~~**must** not be revoked unless an interview with the
29 prisoner is conducted by 1 member of the parole board. The purpose

1 of the interview is to consider and act upon information received
2 by the board after the original parole release decision. A
3 revocation interview ~~shall~~**must** be conducted ~~within~~**not more than**
4 45 days after ~~receiving~~**the board received** the new information. ~~At~~
5 ~~least~~**Not less than** 10 days before the interview, the parolee ~~shall~~
6 **must** receive a copy or summary of the new evidence that is the
7 basis for the interview.

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

12 (4) When a parole order is issued, the order ~~shall~~**must**
13 contain the conditions of the parole and ~~shall~~**must** specifically
14 provide proper means of supervision of the paroled prisoner in
15 accordance with the rules of the ~~bureau of field services~~**field**
16 **operations administration**.

17 (5) The parole order ~~shall~~**must** contain a condition to pay
18 restitution to the victim of the prisoner's crime or the victim's
19 estate if the prisoner was ordered to make restitution under the
20 William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL
21 780.751 to 780.834, or the code of criminal procedure, 1927 PA 175,
22 MCL 760.1 to 777.69.

23 (6) The parole order ~~shall~~**must** contain a condition requiring
24 the parolee to pay a parole supervision fee as prescribed in
25 section 36a.

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

29 (8) The parole order ~~shall~~**must** contain a condition requiring

1 the parolee to pay the minimum state cost prescribed by section 1j
 2 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL
 3 769.1j, if the minimum state cost has not been paid.

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

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

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

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

27 (a) The balance of filing fees and costs ordered to be paid
 28 under section 2963 of the revised judicature act of 1961, 1961 PA
 29 236, MCL 600.2963.

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

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

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

(14) ~~(15)~~ ~~Beginning August 28, 2006, if~~ **If** a parolee convicted of violating or conspiring to violate section 520b or 520c of the Michigan penal code, 1931 PA 328, MCL 750.520b and 750.520c, other than a parolee who is subject to lifetime electronic monitoring under section 85, is placed on parole, the parole board may require that the parolee be subject to electronic monitoring. The electronic monitoring required under this subsection ~~shall~~ **must** be conducted in the same manner, and ~~shall be~~ **is** subject to the same requirements, as is described in ~~section 85 of this act and section~~ 520n(2) of the Michigan penal code, 1931 PA 328, MCL 750.520n, **and**

1 **section 85**, except as follows:

2 (a) The electronic monitoring ~~shall~~**must** continue only for the
3 duration of the term of parole.

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

7 **(15)** ~~(16)~~ If the parole order contains a condition intended to
8 protect 1 or more named persons, the department shall enter those
9 provisions of the parole order into the corrections management
10 information system, accessible by the law enforcement information
11 network. If the parole board rescinds a parole order described in
12 this subsection, the department within 3 business days shall remove
13 from the corrections management information system the provisions
14 of that parole order.

15 **(16)** ~~(17)~~ Each prisoner who is required to be registered under
16 the sex offenders registration act, 1994 PA 295, MCL 28.721 to
17 28.736, before being released on parole or being released upon
18 completion of his or her maximum sentence, shall provide to the
19 department notice of the location of his or her proposed place of
20 residence or domicile. The department then shall forward that
21 notice of location to the appropriate law enforcement agency as
22 required under section 5(3) of the sex offenders registration act,
23 1994 PA 295, MCL 28.725. A prisoner who refuses to provide notice
24 of the location of his or her proposed place of residence or
25 domicile or knowingly provides an incorrect notice of the location
26 of his or her proposed place of residence or domicile under this
27 subsection is guilty of a felony punishable by imprisonment for not
28 more than 4 years or a fine of not more than \$2,000.00, or both.

29 **(17)** ~~(18)~~ If a prisoner is serving a sentence for violating

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

26 (18) ~~(19)~~The parole order ~~shall~~**must** require the parolee to
27 provide written consent to submit to a search of his or her person
28 or property upon demand by a peace officer or parole officer. The
29 written consent ~~shall~~**must** include the prisoner's name and date of

1 birth, his or her physical description, the date for release on
 2 parole, and the ending date for that parole. The prisoner shall
 3 sign the written consent before being released on parole. The
 4 department shall promptly enter this condition of parole into the
 5 department's corrections management information system or offender
 6 management network information system or into a corresponding
 7 records management system that is accessible through the law
 8 enforcement information network. Consent to a search as provided
 9 under this subsection does not authorize a search that is conducted
 10 with the sole intent to intimidate or harass.

11 (19) ~~(20)~~ As used in this section, "violent felony" means an
 12 offense against a person in violation of section 82, 83, 84, 86,
 13 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d,
 14 520e, 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA
 15 328, MCL 750.82, 750.83, 750.84, 750.86, 750.87, 750.88, 750.89,
 16 750.316, 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397,
 17 750.520b, 750.520c, 750.520d, 750.520e, 750.520g, 750.529,
 18 750.529a, and 750.530.

19 Sec. 51. (1) There is created within the department a hearings
 20 division. The division is under the direction and supervision of
 21 the hearings administrator who is appointed by the director of the
 22 department.

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

28 (a) An infraction of a prison rule that may result in punitive
 29 segregation, ~~loss of disciplinary credits,~~ or the loss of good

1 time.

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

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

7 (d) Visitor restrictions.

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

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

12 (3) ~~(4)~~—The hearings division is not responsible for a
13 prisoner hearing that is conducted for prisoners transferred under
14 section 11a to an institution of another state pursuant to the
15 interstate corrections compact.

16 (4) ~~(5)~~—The hearings division is not responsible for a
17 prisoner hearing that is conducted as a result of a minor
18 misconduct charge that would not cause a loss of good time ~~or~~
19 ~~disciplinary credits,~~ or result in placement in punitive
20 segregation.

21 (5) ~~(6)~~—Each hearings officer of the department is under the
22 direction and supervision of the hearings division. Each hearings
23 officer hired by the department after October 1, 1979, ~~shall must~~
24 be an attorney.

25 Sec. 65. (1) Under rules promulgated by the director of the
26 department, the assistant director in charge of the ~~bureau of~~
27 correctional facilities **administration**, except as otherwise
28 provided in this section, may cause the transfer or re-transfer of
29 a prisoner from a correctional facility to which he or she was

1 committed to any other correctional facility, or temporarily to a
 2 state institution for medical or surgical treatment. In effecting a
 3 transfer, the assistant director **in charge** of the ~~bureau of~~
 4 correctional facilities **administration** may utilize the services of
 5 an executive or employee within the department and of a law
 6 enforcement officer of ~~the~~ **this** state.

7 ~~(2) A prisoner who is subject to disciplinary time and is~~
 8 ~~committed to the jurisdiction of the department must be confined in~~
 9 ~~a secure correctional facility for the duration of his or her~~
 10 ~~minimum sentence, except for periods when the prisoner is away from~~
 11 ~~the secure correctional facility while being supervised by an~~
 12 ~~employee of the department or by an employee of a private~~
 13 ~~contractor that operates a facility or institution that houses~~
 14 ~~prisoners under the jurisdiction of the department for 1 of the~~
 15 ~~following purposes:~~

16 ~~(a) Visiting a critically ill relative.~~

17 ~~(b) Attending the funeral of a relative.~~

18 ~~(c) Obtaining medical services not otherwise available at the~~
 19 ~~secure correctional facility.~~

20 ~~(d) Participating in a work detail.~~

21 **(2)** ~~(3)~~ As used in this section, "offender" means a citizen of
 22 the United States or a foreign country who has been convicted of a
 23 crime and been given a sentence in a country other than the country
 24 of which he or she is a citizen. If a treaty is in effect between
 25 the United States and a foreign country, which provides for the
 26 transfer of offenders from the jurisdiction of 1 of the countries
 27 to the jurisdiction of the country of which the offender is a
 28 citizen, and if the offender requests the transfer, the governor of
 29 this state or a person designated by the governor may give the

1 approval of this state to a transfer of an offender, if the
2 conditions of the treaty are satisfied.

3 (3) ~~(4)~~—Not less than 45 days before approval of a transfer
4 under subsection ~~(3)~~—(2) from this state to another country, the
5 governor, or the governor's designee, shall notify the sentencing
6 judge and the prosecuting attorney of the county having original
7 jurisdiction, or their successors in office, of the request for
8 transfer. The notification must indicate any name changes of the
9 offender subsequent to sentencing. Within 20 days after receiving
10 notification under this subsection, the judge or prosecutor may
11 send to the governor, or the governor's designee, information about
12 the criminal action against the offender or objections to the
13 transfer. Objections to the transfer must not preclude approval of
14 the transfer.

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

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

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

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

25 Sec. 65a. (1) Under prescribed conditions, the director may
26 extend the limits of confinement of a prisoner when there is
27 reasonable assurance, after consideration of all facts and
28 circumstances, that the prisoner will not become a menace to
29 society or to the public safety, by authorizing the prisoner to do

1 any of the following:

2 (a) Visit a specifically designated place or places. An
3 extension of limits may be granted only to a prisoner housed in a
4 state correctional facility to permit a visit to a critically ill
5 relative, attendance at the funeral of a relative, or contacting
6 prospective employers. The maximum amount of time a prisoner is
7 eligible for an extension of the limits of confinement under this
8 subdivision ~~shall~~**must** not exceed a cumulative total period of 30
9 days.

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

12 (c) Work at paid employment, participate in a training or
13 educational program, or participate in a community residential drug
14 treatment program while continuing as a prisoner housed on a
15 voluntary basis at a community corrections center or in a community
16 residential home.

17 (2) The director shall promulgate rules to implement this
18 section.

19 (3) The willful failure of a prisoner to remain within the
20 extended limits of his or her confinement or to return within the
21 time prescribed to an institution or facility designated by the
22 director ~~shall be~~**is** considered an escape from custody as provided
23 in section 193 of the Michigan penal code, 1931 PA 328, MCL
24 750.193.

25 (4) Subject to subsection ~~(8)~~, **(7)**, a prisoner ~~, other than a~~
26 ~~prisoner subject to disciplinary time,~~ who is convicted of a crime
27 of violence or any assaultive crime is not eligible for the
28 extensions of the limits of confinement provided in subsection (1)
29 until the minimum sentence imposed for the crime has less than 180

1 days remaining.

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

6 ~~(5) (6) However, notwithstanding subsections~~ **Notwithstanding**
 7 **subsection (4), or (5),** if the reason for the extension is to visit
 8 a critically ill relative, attend the funeral of a relative, or
 9 obtain medical services not otherwise available, the director may
 10 allow the extension under escort as provided in subsection (1).

11 ~~(6) (7)~~ A prisoner serving a sentence for murder in the first
 12 degree is not eligible for the extensions of confinement under this
 13 section until a parole release date is established by the parole
 14 board and in no case before serving 15 calendar years with a good
 15 institutional adjustment.

16 ~~(7) (8)~~ A prisoner who is convicted of a crime of violence or
 17 any assaultive crime, and whose minimum sentence imposed for the
 18 crime is 10 years or more, ~~shall~~ **must** not be placed in a community
 19 residential home during any portion of his or her sentence.

20 ~~(8) (9)~~ As used in this section:

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

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

1 (c) "State correctional facility" means a facility or
2 institution that houses a prisoner population under the
3 jurisdiction of the department. State correctional facility does
4 not include a community corrections center or community residential
5 home.

6 Enacting section 1. Sections 33b and 33c of the corrections
7 code of 1953, 1953 PA 232, MCL 791.233b and 791.233c, are repealed
8 effective 90 days after the date this amendatory act is enacted
9 into law.

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

12 Enacting section 3. This amendatory act does not take effect
13 unless all of the following bills of the 100th Legislature are
14 enacted into law:

15 (a) Senate Bill No. 1242.

16
17 (b) Senate Bill No. 1241.

18
19 (c) Senate Bill No. 1240.
20