

# SENATE BILL No. 16

January 11, 1989, Introduced by Senators WELBORN and DINGELL and referred to the Committee on Criminal Justice, Urban Affairs, and Economic Development.

A bill to amend section 16 of Act No. 232 of the Public Acts of 1953, entitled as amended

"An act to revise, consolidate, and codify the laws relating to probationers and probation officers as herein defined, to pardons, reprieves, commutations, and paroles, to the administration of penal institutions, correctional farms, and probation recovery camps, to prison labor and prison industries, and the supervision and inspection of local jails and houses of correction; to provide for the siting of correctional facilities; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are hereby transferred; to prescribe the powers and duties of certain other state departments and agencies; to provide for the creation of a local lockup advisory board; to prescribe penalties for the violation of the provisions of this act; and to repeal all acts and parts of acts inconsistent with the provisions of this act,"

as added by Act No. 303 of the Public Acts of 1980, being section 791.216 of the Michigan Compiled Laws.

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

1       Section 1. Section 16 of Act No. 232 of the Public Acts of  
2 1953, as added by Act No. 303 of the Public Acts of 1980, being  
3 section 791.216 of the Michigan Compiled Laws, is amended to read  
4 as follows:

5       Sec. 16. (1) The department shall develop a comprehensive  
6 plan for determining the need for establishing various types of  
7 correctional facilities, for selecting the location of ~~a~~ cor-  
8 rectional ~~facility~~ FACILITIES, and for determining the size of  
9 the correctional ~~facility~~ FACILITIES. The comprehensive plan  
10 shall not be implemented until the legislature, by concurrent  
11 resolution adopted by a majority of those elected and serving in  
12 each house by a record roll call vote, approves the comprehensive  
13 plan.

14       (2) The department shall determine the need for ~~a~~ correc-  
15 tional ~~facility~~ FACILITIES based upon the comprehensive plan  
16 developed pursuant to subsection (1).

17       (3) The department shall publish a notice that it proposes  
18 to establish a correctional facility in a particular city, vil-  
19 lage, or township. The notice shall appear in a newspaper of  
20 general circulation in the area. In addition, the department  
21 shall notify the following officials:

22       (a) The state senator and the state representative repre-  
23 senting the district in which the correctional facility is to be  
24 located.

25       (b) The president of each state supported college or univer-  
26 sity whose campus is located within 1 mile of the proposed  
27 correctional facility.

1 (c) The chief elected official of the city, village, or  
2 township in which the correctional facility is to be located.

3 (d) Each member of the governing body of the city, village,  
4 or township in which the correctional facility is to be located.

5 (e) Each member of the county board of commissioners OF THE  
6 COUNTY in which the correctional facility is to be located.

7 (f) The president of the local school board of the local  
8 school district in which the correctional facility is to be  
9 located.

10 (g) The president of the intermediate school board of the  
11 intermediate school district in which the correctional facility  
12 is to be located.

13 (4) With the notice, the department shall request the chair-  
14 person of the county board of commissioners of the county in  
15 which the correctional facility is to be located and the person  
16 notified pursuant to subsection (3)(c) to create a local advisory  
17 board to assist in the identification of potential sites for the  
18 correctional facility, to act as a liaison between the department  
19 and the local community, and to ensure that the comprehensive  
20 plan is being followed by the department. The officials  
21 requested to create a local advisory board pursuant to this sub-  
22 section shall serve as co-chairpersons of that local advisory  
23 board.

24 (5) After the requirements of subsections (1), (2), (3), and  
25 (4) are completed and the department has selected a potential  
26 site, the department AND THE DEPARTMENT OF MANAGEMENT AND BUDGET  
27 shall hold a public hearing in the city, village, or township in

1 which the potential site is located. The department AND THE  
2 DEPARTMENT OF MANAGEMENT AND BUDGET shall participate in the  
3 hearing and shall make a reasonable effort to respond in writing  
4 to concerns and questions raised on the record at the hearing.  
5 The hearing shall not be held until the local advisory board cre-  
6 ated by subsection (4) has organized, or sooner than 30 days  
7 after the notice is sent pursuant to subsection (3), whichever  
8 occurs first.

9 (6) Hearings the department ~~shall~~ AND THE DEPARTMENT OF  
10 MANAGEMENT AND BUDGET conduct under subsection (5) shall be open  
11 to the public and shall be held in a place available to the gen-  
12 eral public. Any person shall be permitted to attend a hearing  
13 except as otherwise provided in this section. A person shall not  
14 be required as a condition to attendance at a hearing to register  
15 or otherwise provide his or her name or other information or oth-  
16 erwise to fulfill a condition precedent to attendance. A person  
17 shall be permitted to address the hearing under written proce-  
18 dures established by the department. A person shall not be  
19 excluded from a hearing except for a breach of the peace actually  
20 committed at the meeting.

21 (7) The following provisions shall apply with respect to  
22 public notice of hearings required under this section:

23 (a) A public notice shall always contain the name of the  
24 department AND THE DEPARTMENT OF MANAGEMENT AND BUDGET, its tele-  
25 phone number, and its address.

26 (b) A public notice shall always be posted at the  
27 ~~department's~~ principal office OF THE DEPARTMENT AND THE

1 DEPARTMENT OF MANAGEMENT AND BUDGET and other locations  
2 considered appropriate by the department AND THE DEPARTMENT OF  
3 MANAGEMENT AND BUDGET.

4 (c) The required public notice for a hearing shall be posted  
5 in the office of the county clerk of the county in which the  
6 CORRECTIONAL facility is to be located and shall be published in  
7 a newspaper of general circulation in the county in which the  
8 CORRECTIONAL facility is to be located.

9 (d) A public notice stating the date, time, and place of the  
10 hearing shall be posted at least 10 days before the hearing.

11 (8) Minutes of each hearing required under this section  
12 shall be kept showing the date, time, place, members of the local  
13 advisory board present, members of the local advisory board  
14 absent, and a summary of the discussions at the hearing. The  
15 minutes shall be public records open to public inspection and  
16 shall be available at the address designated on THE posted public  
17 notices pursuant to subsection (7). Copies of the minutes shall  
18 be available from the department to the public at the reasonable  
19 estimated cost for printing and copying.

20 (9) On the basis of the information developed by the depart-  
21 ment during the course of the site selection process, and after  
22 community concerns have been responded to ~~by the department~~  
23 pursuant to subsection (5), the commission shall make a final  
24 site determination for the correctional facility. The commission  
25 shall make a finding that the site determination was made in com-  
26 pliance with this section. This finding and notice of final site  
27 selection shall be transmitted in writing by the commission to

1 the local advisory board, the officials described in subsection  
2 (3), and the chairpersons of the senate and house appropriations  
3 committees, AND SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIR-  
4 CULATION IN THE CITY, VILLAGE, OR TOWNSHIP IN WHICH THE FINAL  
5 SELECTED SITE IS LOCATED.

6 (10) WITHIN 30 DAYS AFTER THE NOTICE OF FINAL SITE SELECTION  
7 IS TRANSMITTED IN WRITING BY THE COMMISSION UNDER SUBSECTION (9),  
8 A PETITION MAY BE SUBMITTED TO THE COUNTY CLERK OF THE COUNTY IN  
9 WHICH THE FINAL SELECTED SITE IS LOCATED, REQUESTING THAT THE  
10 QUESTION OF APPROVING THE FINAL SITE SELECTION BE SUBMITTED TO  
11 THE VOTERS RESIDING IN THE CITY, VILLAGE, OR TOWNSHIP IN WHICH  
12 THE FINAL SELECTED SITE IS LOCATED FOR THEIR APPROVAL OR  
13 REJECTION. THE PETITION SHALL BE SIGNED BY A NUMBER OF PERSONS  
14 RESIDING IN THE CITY, VILLAGE, OR TOWNSHIP EQUAL TO NOT LESS THAN  
15 15% OF THE TOTAL VOTE CAST IN THE CITY, VILLAGE, OR TOWNSHIP FOR  
16 ALL CANDIDATES FOR GOVERNOR AT THE MOST RECENT GENERAL ELECTION  
17 AT WHICH A GOVERNOR WAS ELECTED. UPON THE FILING OF A PETITION  
18 UNDER THIS SUBSECTION, THE DEPARTMENT SHALL NOT PROCEED WITH  
19 ESTABLISHING THE CORRECTIONAL FACILITY AT THE FINAL SELECTED SITE  
20 UNTIL THE SELECTION OF THE FINAL SITE IS APPROVED BY A MAJORITY  
21 OF THE VOTERS RESIDING IN THE CITY, VILLAGE, OR TOWNSHIP. THE  
22 COUNTY CLERK, UPON DETERMINING THE VALIDITY OF THE PETITION,  
23 SHALL ORDER A REFERENDUM ON THE QUESTION OF APPROVING THE SELEC-  
24 TION OF THE FINAL SITE. THE REFERENDUM SHALL BE HELD AT THE  
25 FIRST PRIMARY OR GENERAL ELECTION HELD IN THE CITY, VILLAGE, OR  
26 TOWNSHIP, OR AT A SPECIAL ELECTION HELD PURSUANT TO SECTION 639

1 OF THE MICHIGAN ELECTION LAW, ACT NO. 116 OF THE PUBLIC ACTS OF  
2 1954, BEING SECTION 168.639 OF THE MICHIGAN COMPILED LAWS.

3 (11) ~~(10)~~ An option to lease, purchase, or use property  
4 may be obtained but shall not be exercised by the state for a  
5 correctional facility until ~~the commission has made a final site~~  
6 ~~determination and has transmitted a notice of final site selec-~~  
7 ~~tion as required in~~ THE REQUIREMENTS OF subsection ~~(9)~~ (10)  
8 HAVE BEEN SATISFIED.