

**SUBSTITUTE FOR
HOUSE BILL NO. 4102**

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending sections 33, 33b, and 34 (MCL 791.233, 791.233b, and
791.234), section 33 as amended by 2017 PA 14, section 33b as
amended by 2010 PA 94, and section 34 as amended by 2017 PA 265.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

8 (b) Except as provided in section 34a **AND SECTION 35(10)**, a

1 parole must not be granted to a prisoner other than a prisoner
2 subject to disciplinary time until the prisoner has served the
3 minimum term imposed by the court less allowances for good time or
4 special good time to which the prisoner may be entitled by statute,
5 except that a prisoner other than a prisoner subject to
6 disciplinary time is eligible for parole before the expiration of
7 his or her minimum term of imprisonment whenever the sentencing
8 judge, or the judge's successor in office, gives written approval
9 of the parole of the prisoner before the expiration of the minimum
10 term of imprisonment.

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

20 (d) Except as provided in section 34a **AND SECTION 35(10)**, a
21 parole must not be granted to a prisoner subject to disciplinary
22 time until the prisoner has served the minimum term imposed by the
23 court.

24 (e) A prisoner must not be released on parole until the parole
25 board has satisfactory evidence that arrangements have been made
26 for such honorable and useful employment as the prisoner is capable
27 of performing, for the prisoner's education, or for the prisoner's

1 care if the prisoner is mentally or physically ill or
2 incapacitated.

3 (f) A—**EXCEPT AS PROVIDED IN SECTION 35(10)**, A prisoner whose
4 minimum term of imprisonment is 2 years or more must not be
5 released on parole unless he or she has either earned a high school
6 diploma or a high school equivalency certificate. The director of
7 the department may waive the restriction imposed by this
8 subdivision as to any prisoner who is over the age of 65 or who was
9 gainfully employed immediately before committing the crime for
10 which he or she was incarcerated. The department may also waive the
11 restriction imposed by this subdivision as to any prisoner who has
12 a learning disability, who does not have the necessary proficiency
13 in English, or who for some other reason that is not the fault of
14 the prisoner is unable to successfully complete the requirements
15 for a high school diploma or a high school equivalency certificate.
16 If the prisoner does not have the necessary proficiency in English,
17 the department shall provide English language training for that
18 prisoner necessary for the prisoner to begin working toward the
19 completion of the requirements for a high school equivalency
20 certificate. This subdivision applies to prisoners sentenced for
21 crimes committed after December 15, 1998. In providing an
22 educational program leading to a high school diploma or a high
23 school equivalency certificate, the department shall give priority
24 to prisoners sentenced for crimes committed on or before December
25 15, 1998.

26 (2) Paroles-in-custody to answer warrants filed by local or
27 out-of-state agencies, or immigration officials, are permissible if

1 an accredited agent of the agency filing the warrant calls for the
2 prisoner to be paroled in custody.

3 (3) The parole board may promulgate rules under the
4 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
5 24.328, that are not inconsistent with this act with respect to
6 conditions imposed upon prisoners paroled under this act.

7 Sec. 33b. ~~A~~**EXCEPT FOR A PRISONER GRANTED PAROLE UNDER SECTION**
8 **35(10)**, ~~A~~ person convicted and sentenced for the commission of any
9 of the following crimes other than a prisoner subject to
10 disciplinary time is not eligible for parole until the person has
11 served the minimum term imposed by the court less an allowance for
12 disciplinary credits as provided in section 33(5) of 1893 PA 118,
13 MCL 800.33, and is not eligible for special parole:

14 (a) Section 13 of the Michigan penal code, 1931 PA 328, MCL
15 750.13.

16 (b) Section 14 of the Michigan penal code, 1931 PA 328, MCL
17 750.14.

18 (c) Section 72, 73, or 75 of the Michigan penal code, 1931 PA
19 328, MCL 750.72, 750.73, and 750.75.

20 (d) Section ~~80~~, 82, 83, 84, 86, 87, 88, 89, or 90 of the
21 Michigan penal code, 1931 PA 328, MCL ~~750.80~~, 750.82, 750.83,
22 750.84, 750.86, 750.87, 750.88, 750.89, and 750.90, or former
23 section ~~85~~**80** of that act.

24 (e) Section 91 or 92 of the Michigan penal code, 1931 PA 328,
25 MCL 750.91 and 750.92.

26 (f) Section 110, 112, or 116 of the Michigan penal code, 1931
27 PA 328, MCL 750.110, 750.112, and 750.116.

1 (g) Section 135 ~~OR 136b(2) or 136b(3)~~ **OR (3)** of the
2 Michigan penal code, 1931 PA 328, MCL 750.135 and 750.136b, or
3 former section 136a of that act.

4 (h) Section 158 of the Michigan penal code, 1931 PA 328, MCL
5 750.158.

6 (i) Section 160 of the Michigan penal code, 1931 PA 328, MCL
7 750.160.

8 (j) Former section 171 of the Michigan penal code, 1931 PA
9 328.

10 (k) Section 196 of the Michigan penal code, 1931 PA 328, MCL
11 750.196, or former section 194 of that act.

12 (l) Section 204, 207, 209, or 213 of the Michigan penal code,
13 1931 PA 328, MCL 750.204, 750.207, 750.209, and 750.213, or former
14 section 205, 206 or 208 of that act.

15 (m) Section 224, 226, or 227 of the Michigan penal code, 1931
16 PA 328, MCL 750.224, 750.226, and 750.227.

17 (n) Section 316, 317, ~~319~~, 321, 322, 323, 327, 328, or 329 of
18 the Michigan penal code, 1931 PA 328, MCL 750.316, 750.317,
19 ~~750.319~~, 750.321, 750.322, 750.323, 750.327, 750.328, and 750.329,
20 **OR FORMER SECTION 319 OF THAT ACT.**

21 (o) Former section 333 of the Michigan penal code, 1931 PA
22 328.

23 (p) Section 338, 338a, or 338b of the Michigan penal code,
24 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, or former section
25 341 of that act.

26 (q) Section 349, 349a, or 350 of the Michigan penal code, 1931
27 PA 328, MCL 750.349, 750.349a, and 750.350.

(r) Section 357 of the Michigan penal code, 1931 PA 328, MCL 750.357.

(s) Section 386 or 392 of the Michigan penal code, 1931 PA 328, MCL 750.386 and 750.392.

(t) Section 397 or 397a of the Michigan penal code, 1931 PA 328, MCL 750.397 and 750.397a.

(u) Section 436 of the Michigan penal code, 1931 PA 328, MCL 750.436.

(v) Section 511 of the Michigan penal code, 1931 PA 328, MCL 750.511, or former section 517 of that act.

(w) Section 520b, 520c, 520d, or 520g of the Michigan penal code, 1931 PA ~~382,~~ **328**, MCL 750.520b, 750.520c, 750.520d, and 750.520g.

(x) Section 529, 529a, 530, or 531 of the Michigan penal code, 1931 PA 328, MCL 750.529, 750.529a, 750.530, and 750.531.

(y) Section 544 of the Michigan penal code, 1931 PA 328, MCL 750.544, or former section 545a of that act.

(z) Former section 2 of 1950 (Ex Sess) PA 38.

(aa) Former section 6 of 1952 PA 117.

(bb) Section 1, 2, or 3 of 1968 PA 302, MCL 752.541, 752.542, and 752.543.

(cc) Section 7401(2)(a) ~~, 7401(2)(b), OR (B) OR 7402(2)(a) or 7402(2)(b) OR (B)~~ of the public health code, 1978 PA 368, MCL 333.7401 and 333.7402.

Sec. 34. (1) Except **FOR A PRISONER GRANTED PAROLE UNDER SECTION 35(10) OR** as provided in section 34a, a prisoner sentenced to an indeterminate sentence and confined in a state correctional

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

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

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

27 (4) ~~If~~ **EXCEPT FOR A PRISONER GRANTED PAROLE UNDER SECTION**

1 **35(10) , IF** a prisoner subject to disciplinary time is sentenced for
 2 consecutive terms, whether received at the same time or at any time
 3 during the life of the original sentence, the parole board has
 4 jurisdiction over the prisoner for purposes of parole when the
 5 prisoner has served the total time of the added minimum terms. The
 6 maximum terms of the sentences must be added to compute the new
 7 maximum term under this subsection, and discharge must be issued
 8 only after the total of the maximum sentences has been served,
 9 unless the prisoner is paroled and discharged upon satisfactory
 10 completion of the parole.

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

16 **(6) A PRISONER SENTENCED TO IMPRISONMENT FOR LIFE FOR A**
 17 **VIOLATION OF SECTION 316 OR 520B(2) (C) OF THE MICHIGAN PENAL CODE,**
 18 **1931 PA 328, MCL 750.316 AND 750.520B, IS NOT ELIGIBLE FOR PAROLE**
 19 **AND IS INSTEAD SUBJECT TO THE PROVISIONS OF SECTION 44.**

20 **(7) ~~(6)~~**A prisoner sentenced to imprisonment for life for any
 21 of the following is ~~not~~ eligible for parole **UNDER SECTION 35(10)**
 22 **ONLY** and is **OTHERWISE** instead subject to the provisions of section
 23 44:

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

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

1 **(B)** ~~(e)~~ A violation of chapter XXXIII of the Michigan penal
2 code, 1931 PA 328, MCL 750.200 to 750.212a.

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

5 ~~(e) First degree criminal sexual conduct in violation of~~
6 ~~section 520b(2)(c) of the Michigan penal code, 1931 PA 328, MCL~~
7 ~~750.520b.~~

8 **(D)** ~~(f)~~ Any other violation for which parole eligibility is
9 expressly denied under state law.

10 **(8)** ~~(7)~~ **A EXCEPT FOR A PRISONER GRANTED PAROLE UNDER SECTION**
11 **35(10), A** prisoner sentenced to imprisonment for life, other than a
12 prisoner described in subsection ~~(6)~~, **(7)**, is subject to the
13 jurisdiction of the parole board and may be placed on parole
14 according to the conditions prescribed in subsection ~~(8)~~ **(9)** if he
15 or she meets any of the following criteria:

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

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

25 (c) Except as provided in subsection ~~(12)~~, **(13)**, the prisoner
26 has served 17-1/2 calendar years of the sentence for violating, or
27 attempting or conspiring to violate, section 7401(2)(a)(i) of the

1 public health code, 1978 PA 368, MCL 333.7401, and does not have
2 another conviction for a serious crime.

3 (9) ~~(8)~~—A parole granted to a prisoner under subsection ~~(7)~~
4 (8) is subject to the following conditions:

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

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

22 (c) A decision to grant or deny parole to the prisoner must
23 not be made until after a public hearing held in the manner
24 prescribed for pardons and commutations in sections 44 and 45.
25 Notice of the public hearing must be given to the sentencing judge,
26 or the judge's successor in office. Parole must not be granted if
27 the sentencing judge files written objections to the granting of

1 the parole within 30 days of receipt of the notice of hearing, but
2 the sentencing judge's written objections bar the granting of
3 parole only if the sentencing judge is still in office in the court
4 before which the prisoner was convicted and sentenced. A sentencing
5 judge's successor in office may file written objections to the
6 granting of parole, but a successor judge's objections must not bar
7 the granting of parole under subsection ~~(7)~~—(8). If written
8 objections are filed by either the sentencing judge or the judge's
9 successor in office, they must be made part of the prisoner's file.

10 (d) A parole granted under subsection ~~(7)~~—(8) must be for a
11 period of not less than 4 years and subject to the usual rules
12 pertaining to paroles granted by the parole board. A parole granted
13 under subsection ~~(7)~~—(8) is not valid until the transcript of the
14 record is filed with the attorney general whose certification of
15 receipt of the transcript must be returned to the office of the
16 parole board within 5 days. Except for medical records protected
17 under section 2157 of the revised judicature act of 1961, 1961 PA
18 236, MCL 600.2157, the file of a prisoner granted a parole under
19 subsection ~~(7)~~—(8) is a public record.

20 (10) ~~(9)~~—An interview conducted under subsection ~~(8)~~—(a)—(9) (A)
21 is subject to both of the following requirements:

22 (a) The prisoner must be given written notice, not less than
23 30 days before the interview date, stating that the interview will
24 be conducted.

25 (b) The prisoner may be represented at the interview by an
26 individual of his or her choice. The representative must not be
27 another prisoner. A prisoner is not entitled to appointed counsel

1 at public expense. The prisoner or representative may present
2 relevant evidence in favor of holding a public hearing as allowed
3 in subsection ~~(8)(e)~~. **(9)(C)**.

4 **(11)** ~~(10)~~—In determining whether a prisoner convicted of
5 violating, or attempting or conspiring to violate, section
6 7401(2)(a)(i) of the public health code, 1978 PA 368, MCL 333.7401,
7 and sentenced to imprisonment for life before October 1, 1998 is to
8 be released on parole, the parole board shall consider all of the
9 following:

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

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

15 (c) Any of the following:

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

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

1 committed to further the interests of that entity.

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

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

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

15 (13) ~~(12)~~ If the sentencing judge, or his or her successor in
16 office, determines on the record that a prisoner described in
17 subsection ~~(7) (b)~~ **(8) (B)** or (c) sentenced to imprisonment for life
18 for violating, or attempting or conspiring to violate, section
19 7401(2) (a) (i) of the public health code, 1978 PA 368, MCL 333.7401,
20 has cooperated with law enforcement, the prisoner is subject to the
21 jurisdiction of the parole board and may be released on parole as
22 provided in subsection ~~(7) (b)~~ **(8) (B)** or (c) 2-1/2 years earlier
23 than the time otherwise indicated in subsection ~~(7) (b)~~ **(8) (B)** or
24 (c). The prisoner is considered to have cooperated with law
25 enforcement if the court determines on the record that the prisoner
26 had no relevant or useful information to provide. The court shall
27 not make a determination that the prisoner failed or refused to

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

6 **(14) ~~(13) Notwithstanding~~ EXCEPT FOR A PRISONER GRANTED PAROLE**
7 **UNDER SECTION 35(10) AND NOTWITHSTANDING** subsections (1) and (2), a
8 prisoner convicted of violating, or attempting or conspiring to
9 violate, section 7401(2)(a)(i) or 7403(2)(a)(i) of the public
10 health code, 1978 PA 368, MCL 333.7401 and 333.7403, whose offense
11 occurred before March 1, 2003, and who was sentenced to a term of
12 years, is eligible for parole after serving 20 years of the
13 sentence imposed for the violation if the individual has another
14 serious crime or 17-1/2 years of the sentence if the individual
15 does not have another conviction for a serious crime, or after
16 serving the minimum sentence imposed for that violation, whichever
17 is less.

18 **(15) ~~(14) Notwithstanding~~ EXCEPT FOR A PRISONER GRANTED PAROLE**
19 **UNDER SECTION 35(10) AND NOTWITHSTANDING** subsections (1) and (2), a
20 prisoner who was convicted of violating, or attempting or
21 conspiring to violate, section 7401(2)(a)(ii) or 7403(2)(a)(ii) of
22 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403,
23 whose offense occurred before March 1, 2003, and who was sentenced
24 according to those sections as they existed before March 1, 2003,
25 is eligible for parole after serving the minimum of each sentence
26 imposed for that violation or 10 years of each sentence imposed for
27 that violation, whichever is less.

1 **(16) ~~(15) Notwithstanding~~ EXCEPT FOR A PRISONER GRANTED PAROLE**
2 **UNDER SECTION 35(10) AND NOTWITHSTANDING** subsections (1) and (2), a
3 prisoner who was convicted of violating, or attempting or
4 conspiring to violate, section 7401(2)(a)(iii) or 7403(2)(a)(iii)
5 of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403,
6 whose offense occurred before March 1, 2003, and who was sentenced
7 according to those sections as they existed before March 1, 2003,
8 is eligible for parole after serving the minimum of each sentence
9 imposed for that violation or 5 years of each sentence imposed for
10 that violation, whichever is less.

11 **(17) ~~(16) Notwithstanding~~ EXCEPT FOR A PRISONER GRANTED PAROLE**
12 **UNDER SECTION 35(10) AND NOTWITHSTANDING** subsections (1) and (2), a
13 prisoner who was convicted of violating, or attempting or
14 conspiring to violate, section 7401(2)(a)(iv) or 7403(2)(a)(iv) of
15 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403,
16 whose offense occurred before March 1, 2003, who was sentenced
17 according to those sections of law as they existed before March 1,
18 2003 to consecutive terms of imprisonment for 2 or more violations
19 of section 7401(2)(a) or 7403(2)(a) of the public health code, 1978
20 PA 368, MCL 333.7401 and 333.7403, is eligible for parole after
21 serving 1/2 of the minimum sentence imposed for each violation of
22 section 7401(2)(a)(iv) or 7403(2)(a)(iv) of the public health code,
23 1978 PA 368, MCL 333.7401 and 333.7403. This subsection applies
24 only to sentences imposed for violations of section 7401(2)(a)(iv)
25 or 7403(2)(a)(iv) of the public health code, 1978 PA 368, MCL
26 333.7401 and 333.7403, and does not apply if the sentence was
27 imposed for a conviction for a new offense committed while the

1 individual was on probation or parole.

2 **(18) ~~(17) Notwithstanding~~ EXCEPT FOR A PRISONER GRANTED PAROLE**
 3 **UNDER SECTION 35(10) AND NOTWITHSTANDING** subsections (1) and (2), a
 4 prisoner who was convicted of violating, or attempting or
 5 conspiring to violate, section 7401(2)(a)(ii) or (iii) or
 6 7403(2)(a)(ii) or (iii) of the public health code, 1978 PA 368, MCL
 7 333.7401 and 333.7403, who had a prior conviction for a violation
 8 of section 7401(2)(a)(ii) or (iii) or 7403(2)(a)(ii) or (iii) of
 9 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, and
 10 who was sentenced to life without parole under section 7413(1) of
 11 the public health code, 1978 PA 368, MCL 333.7413, according to
 12 that section as it existed before ~~the effective date of the~~
 13 ~~amendatory act that added this subsection~~ **MARCH 28, 2018** is
 14 eligible for parole after serving 5 years of each sentence imposed
 15 for that violation.

16 **(19) ~~(18)~~** The parole board shall provide notice to the
 17 prosecuting attorney of the county in which the prisoner was
 18 convicted before granting parole to the prisoner under subsection
 19 ~~(13),~~ (14), (15), (16), ~~or~~ (17), **OR (18) OR UNDER SECTION 35(10).**
 20 **THE PAROLE BOARD SHALL PROVIDE THE RELEVANT MEDICAL RECORDS TO THE**
 21 **PROSECUTING ATTORNEY OF THE COUNTY IN WHICH THE PRISONER WAS**
 22 **CONVICTED FOR A PRISONER BEING CONSIDERED FOR PAROLE UNDER SECTION**
 23 **35(10) AT THE SAME TIME THE PAROLE BOARD PROVIDES THE NOTICE**
 24 **REQUIRED UNDER THIS SUBSECTION. THE PAROLE BOARD SHALL ALSO PROVIDE**
 25 **NOTICE TO ANY KNOWN VICTIM OR, IN THE CASE OF A HOMICIDE, THE**
 26 **VICTIM'S IMMEDIATE FAMILY, THAT IT IS CONSIDERING A PRISONER FOR**
 27 **PAROLE UNDER SECTION 35(10) AT THE SAME TIME IT PROVIDES NOTICE TO**

1 THE PROSECUTING ATTORNEY UNDER THIS SUBSECTION.

2 (20) THE PROSECUTING ATTORNEY OR VICTIM OR, IN THE CASE OF A
3 HOMICIDE, THE VICTIM'S IMMEDIATE FAMILY, MAY OBJECT TO THE PAROLE
4 BOARD'S DECISION TO RECOMMEND PAROLE BY FILING A MOTION IN THE
5 CIRCUIT COURT IN THE COUNTY IN WHICH THE PRISONER WAS CONVICTED
6 WITHIN 30 DAYS OF RECEIVING NOTICE UNDER SUBSECTION (19). IF THE
7 VICTIM OR, IN THE CASE OF A HOMICIDE, THE VICTIM'S IMMEDIATE
8 FAMILY, OBJECTS TO THE PAROLE BOARD'S DETERMINATION TO CONSIDER THE
9 PRISONER FOR PAROLE UNDER SECTION 35(10), THE PROSECUTING ATTORNEY
10 OF THE COUNTY IN WHICH THE PRISONER WAS CONVICTED SHALL REVIEW THE
11 CASE WITH THE VICTIM OR HIS OR HER IMMEDIATE FAMILY, AS APPLICABLE,
12 BEFORE FILING A MOTION IN THE CIRCUIT COURT AS PROVIDED IN THIS
13 SUBSECTION. A MOTION FILED UNDER THIS SUBSECTION MUST BE HEARD BY
14 THE SENTENCING JUDGE OR THE JUDGE'S SUCCESSOR IN OFFICE. THE
15 PROSECUTING ATTORNEY SHALL INFORM THE PAROLE BOARD IF A MOTION WAS
16 FILED UNDER THIS SUBSECTION. A PROSECUTOR WHO FILES A MOTION UNDER
17 THIS SUBSECTION MAY SEEK AN INDEPENDENT MEDICAL EXAMINATION OF THE
18 PRISONER BEING CONSIDERED FOR PAROLE UNDER SECTION 35(10).

19 (21) BOTH OF THE FOLLOWING APPLY TO A HEARING CONDUCTED ON A
20 MOTION FILED UNDER SUBSECTION (20):

21 (A) THE PROSECUTOR AND THE PAROLE BOARD MAY PRESENT EVIDENCE
22 IN SUPPORT OF OR IN OPPOSITION TO THE DETERMINATION THAT A PRISONER
23 IS MEDICALLY FRAIL, INCLUDING THE RESULTS OF ANY INDEPENDENT
24 MEDICAL EXAMINATION.

25 (B) THE SENTENCING JUDGE OR THE JUDGE'S SUCCESSOR SHALL
26 DETERMINE WHETHER THE PRISONER IS ELIGIBLE FOR PAROLE AS A RESULT
27 OF BEING MEDICALLY FRAIL.

(22) THE DECISION OF THE SENTENCING JUDGE OR THE JUDGE'S SUCCESSOR ON A MOTION FILED UNDER SUBSECTION (20) IS BINDING ON THE PAROLE BOARD WITH RESPECT TO WHETHER A PRISONER MUST BE CONSIDERED MEDICALLY FRAIL OR NOT. HOWEVER, THE DECISION OF THE SENTENCING JUDGE IS SUBJECT TO APPEAL BY LEAVE TO THE COURT OF APPEALS GRANTED TO THE DEPARTMENT, THE PROSECUTING ATTORNEY, OR THE VICTIM OR VICTIM'S IMMEDIATE FAMILY IN THE CASE OF A HOMICIDE. AN APPEAL REGARDING THE GRANT OF PAROLE MAY STILL BE TAKEN AS PROVIDED FOR UNDER SUBSECTION (12) AND THE PAROLE BOARD MAY NOT GRANT A PRISONER PAROLE UNDER SECTION 35(10) UNTIL THE CIRCUIT COURT DECISION ON AN APPEAL UNDER SUBSECTION (12) IS FINAL. AFTER AN APPEAL IS TAKEN AND THE CIRCUIT COURT HAS ISSUED ITS DETERMINATION AS PROVIDED FOR UNDER SUBSECTION (12), NO FURTHER APPEAL MAY BE TAKEN REGARDING THE GRANT OF PAROLE UNDER SECTION 35(10).

(23) ~~(19)~~—As used in this section:

(A) "MEDICALLY FRAIL" MEANS THAT TERM AS DEFINED IN SECTION 35(22).

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

1 **(C)** ~~(b)~~ "State correctional facility" means a facility that
2 houses prisoners committed to the jurisdiction of the department.

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

5 Enacting section 2. This amendatory act does not take effect
6 unless House Bill No. 4101 of the 99th Legislature is enacted into
7 law.