

**SUBSTITUTE FOR  
HOUSE BILL NO. 4102**

A bill to amend 1953 PA 232, entitled  
"Corrections code of 1953,"  
by amending sections 33 and 34 (MCL 791.233 and 791.234), section  
33 as amended by 2017 PA 14 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~~ **IF** 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. 34. (1) Except **FOR A PRISONER GRANTED PAROLE UNDER**  
8 **SECTION 35(10) OR** as provided in section 34a, a prisoner sentenced  
9 to an indeterminate sentence and confined in a state correctional  
10 facility with a minimum in terms of years other than a prisoner  
11 subject to disciplinary time is subject to the jurisdiction of the  
12 parole board when the prisoner has served a period of time equal to  
13 the minimum sentence imposed by the court for the crime of which he  
14 or she was convicted, less good time and disciplinary credits, if  
15 applicable.

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

23 (3) ~~IF~~ **EXCEPT FOR A PRISONER GRANTED PAROLE UNDER SECTION**  
24 **35(10), IF** a prisoner other than a prisoner subject to disciplinary  
25 time is sentenced for consecutive terms, whether received at the  
26 same time or at any time during the life of the original sentence,  
27 the parole board has jurisdiction over the prisoner for purposes of

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1 parole when the prisoner has served the total time of the added  
2 minimum terms, less the good time and disciplinary credits allowed  
3 by statute. The maximum terms of the sentences must be added to  
4 compute the new maximum term under this subsection, and discharge  
5 must be issued only after the total of the maximum sentences has  
6 been served less good time and disciplinary credits, unless the  
7 prisoner is paroled and discharged upon satisfactory completion of  
8 the parole.

9 (4) ~~If~~ **EXCEPT FOR A PRISONER GRANTED PAROLE UNDER SECTION**  
10 **35(10), IF** a prisoner subject to disciplinary time is sentenced for  
11 consecutive terms, whether received at the same time or at any time  
12 during the life of the original sentence, the parole board has  
13 jurisdiction over the prisoner for purposes of parole when the  
14 prisoner has served the total time of the added minimum terms. The  
15 maximum terms of the sentences must be added to compute the new  
16 maximum term under this subsection, and discharge must be issued  
17 only after the total of the maximum sentences has been served,  
18 unless the prisoner is paroled and discharged upon satisfactory  
19 completion of the parole.

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

25 [  
26  
27

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(6) ]A prisoner sentenced to imprisonment for life for ~~[any~~  
**EITHER]**  
 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.~~

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

~~\_\_\_\_\_ (f) Any other violation for which parole eligibility is  
 expressly denied under state law.~~

**(7) EXCEPT FOR A PRISONER GRANTED PAROLE UNDER SECTION 35(10), A  
 PRISONER SENTENCED TO IMPRISONMENT FOR LIFE FOR ANY OF THE FOLLOWING IS  
 NOT ELIGIBLE FOR PAROLE AND IS OTHERWISE SUBJECT TO THE PROVISIONS OF  
 SECTION 44 OR 44A:**

**(A) A VIOLATION OF SECTION 16(5) OR 18(7) OF THE MICHIGAN PENAL  
 CODE, 1931 PA 328, MCL 750.16 AND 750.18.**

**(B) A VIOLATION OF CHAPTER XXXIII OF THE MICHIGAN PENAL CODE, 1931  
 PA 328, MCL 750.200 TO 750.212A.**

**(C) A VIOLATION OF SECTION 17764(7) OF THE PUBLIC HEALTH CODE, 1978  
 PA 368, MCL 333.17764.**

**(D) ANY OTHER VIOLATION FOR WHICH PAROLE ELIGIBILITY IS EXPRESSLY  
 DENIED UNDER STATE LAW.]**

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

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

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

7 (c) Except as provided in subsection ~~(12)~~, **(13)**, the prisoner  
8 has served 17-1/2 calendar years of the sentence for violating, or  
9 attempting or conspiring to violate, section 7401(2)(a)(i) of the  
10 public health code, 1978 PA 368, MCL 333.7401, and does not have  
11 another conviction for a serious crime.

12 **(9)** ~~(8)~~—A parole granted to a prisoner under subsection ~~(7)~~  
13 **(8)** is subject to the following conditions:

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

22 (b) In addition to the interview schedule prescribed in  
23 subdivision (a), the parole board shall review the prisoner's file  
24 at the conclusion of 15 calendar years of the prisoner's sentence  
25 and every 5 years thereafter until the prisoner is paroled,  
26 discharged, or deceased. A prisoner whose file is to be reviewed  
27 under this subdivision ~~shall~~ **MUST** be notified of the upcoming file

1 review at least 30 days before the file review takes place and must  
2 be allowed to submit written statements or documentary evidence for  
3 the parole board's consideration in conducting the file review.

4 (c) A decision to grant or deny parole to the prisoner must  
5 not be made until after a public hearing held in the manner  
6 prescribed for pardons and commutations in sections 44 and 45.  
7 Notice of the public hearing must be given to the sentencing judge,  
8 or the judge's successor in office. Parole must not be granted if  
9 the sentencing judge files written objections to the granting of  
10 the parole within 30 days of receipt of the notice of hearing, but  
11 the sentencing judge's written objections bar the granting of  
12 parole only if the sentencing judge is still in office in the court  
13 before which the prisoner was convicted and sentenced. A sentencing  
14 judge's successor in office may file written objections to the  
15 granting of parole, but a successor judge's objections must not bar  
16 the granting of parole under subsection ~~(7)~~-(8). If written  
17 objections are filed by either the sentencing judge or the judge's  
18 successor in office, ~~they~~**THE OBJECTIONS** must be made part of the  
19 prisoner's file.

20 (d) A parole granted under subsection ~~(7)~~-(8) must be for a  
21 period of not less than 4 years and subject to the usual rules  
22 pertaining to paroles granted by the parole board. A parole granted  
23 under subsection ~~(7)~~-(8) is not valid until the transcript of the  
24 record is filed with the attorney general whose certification of  
25 receipt of the transcript must be returned to the office of the  
26 parole board within 5 days. Except for medical records protected  
27 under section 2157 of the revised judicature act of 1961, 1961 PA

1 236, MCL 600.2157, the file of a prisoner granted a parole under  
2 subsection ~~(7)~~ **(8)** is a public record.

3 **(10)** ~~(9)~~—An interview conducted under subsection ~~(8)(a)~~ **(9) (A)**  
4 is subject to both of the following requirements:

5 (a) The prisoner must be given written notice, not less than  
6 30 days before the interview date, stating that the interview will  
7 be conducted.

8 (b) The prisoner may be represented at the interview by an  
9 individual of his or her choice. The representative must not be  
10 another prisoner. A prisoner is not entitled to appointed counsel  
11 at public expense. The prisoner or representative may present  
12 relevant evidence in favor of holding a public hearing as allowed  
13 in subsection ~~(8)(c)~~ **(9) (C)**.

14 **(11)** ~~(10)~~—In determining whether a prisoner convicted of  
15 violating, or attempting or conspiring to violate, section  
16 7401(2)(a)(i) of the public health code, 1978 PA 368, MCL 333.7401,  
17 and sentenced to imprisonment for life before October 1, 1998 is to  
18 be released on parole, the parole board shall consider all of the  
19 following:

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

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

25 (c) Any of the following:

26 (i) Whether the individual was a principal administrator,  
27 organizer, or leader of an entity that the individual knew or had

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reason to know was organized, in whole or in part, to commit violations of section 7401 or 7403 of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, and whether the violation for which the individual was convicted was committed to further the interests of that entity.

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

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

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

(12) ~~(11)~~—Except as provided in [SUBSECTION (20) AND] section 34a, a prisoner's

release on parole is discretionary with the parole board. The action of the parole board in granting a parole is appealable by the prosecutor of the county from which the prisoner was committed or the victim of the crime for which the prisoner was convicted. The appeal ~~shall~~ **MUST** be to the circuit court in the county from which the prisoner was committed, by leave of the court.

(13) ~~(12)~~—If the sentencing judge, or his or her successor in office, determines on the record that a prisoner described in subsection ~~(7)(b)~~ **(8) (B)** or (c) sentenced to imprisonment for life

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

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

1           **(15) ~~(14) 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)(ii) or 7403(2)(a)(ii) of  
5 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 10 years of each sentence imposed for  
10 that violation, whichever is less.

11           **(16) ~~(15) 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)(iii) or 7403(2)(a)(iii)  
15 of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403,  
16 whose offense occurred before March 1, 2003, and who was sentenced  
17 according to those sections as they existed before March 1, 2003,  
18 is eligible for parole after serving the minimum of each sentence  
19 imposed for that violation or 5 years of each sentence imposed for  
20 that violation, whichever is less.

21           **(17) ~~(16) Notwithstanding~~ EXCEPT FOR A PRISONER GRANTED PAROLE**  
22 **UNDER SECTION 35(10) AND NOTWITHSTANDING** subsections (1) and (2), a  
23 prisoner who was convicted of violating, or attempting or  
24 conspiring to violate, section 7401(2)(a)(iv) or 7403(2)(a)(iv) of  
25 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403,  
26 whose offense occurred before March 1, 2003, who was sentenced  
27 according to those sections of law as they existed before March 1,

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.

**(18) ~~(17) Notwithstanding~~ EXCEPT FOR A PRISONER GRANTED PAROLE UNDER SECTION 35(10) AND NOTWITHSTANDING** subsections (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 ~~the effective date of the amendatory act that added this subsection~~ **MARCH 28, 2018** is eligible for parole after serving 5 years of each sentence imposed for that violation.

**(19) ~~(18)~~** The parole board shall provide notice to the prosecuting attorney of the county in which the prisoner was

1 convicted before granting parole to the prisoner under subsection  
2 ~~(13)~~, (14), (15), (16), ~~or~~ (17), OR (18) OR UNDER SECTION 35(10).  
3 THE PAROLE BOARD SHALL PROVIDE THE RELEVANT MEDICAL RECORDS TO THE  
4 PROSECUTING ATTORNEY OF THE COUNTY IN WHICH THE PRISONER WAS  
5 CONVICTED FOR A PRISONER BEING CONSIDERED FOR PAROLE UNDER SECTION  
6 35(10) AT THE SAME TIME THE PAROLE BOARD PROVIDES THE NOTICE  
7 REQUIRED UNDER THIS SUBSECTION. THE PAROLE BOARD SHALL ALSO PROVIDE  
8 NOTICE TO ANY KNOWN VICTIM OR, IN THE CASE OF A HOMICIDE, THE  
9 VICTIM'S IMMEDIATE FAMILY, THAT IT IS CONSIDERING A PRISONER FOR  
10 PAROLE UNDER SECTION 35(10) AT THE SAME TIME IT PROVIDES NOTICE TO  
11 THE PROSECUTING ATTORNEY UNDER THIS SUBSECTION.

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

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PRISONER BEING CONSIDERED FOR PAROLE UNDER SECTION 35(10). [IF AN APPEAL IS INITIATED UNDER THIS SUBSECTION, A SUBSEQUENT APPEAL UNDER SUBSECTION (12) MAY NOT BE INITIATED UPON THE GRANTING OF PAROLE.]

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

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

(B) THE SENTENCING JUDGE OR THE JUDGE'S SUCCESSOR SHALL DETERMINE WHETHER THE PRISONER IS ELIGIBLE FOR PAROLE AS A RESULT 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. [

]

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

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

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

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

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

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