

SENATE BILL No. 948

January 11, 2006, Introduced by Senators SCHAUER, CHERRY, BRATER, PRUSI, SWITALSKI, BASHAM and CLARK-COLEMAN and referred to the Committee on Judiciary.

A bill to amend 1953 PA 232, entitled "Corrections code of 1953," by amending sections 20g, 29, 34, 63, 63a, 65, 69a, and 70 (MCL 791.220g, 791.229, 791.234, 791.263, 791.263a, 791.265, 791.269a, and 791.270), section 20g as amended by 2000 PA 211, sections 29, 63, 63a, 65, 69a, and 70 as amended by 1998 PA 512, and section 34 as amended by 2004 PA 218.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20g. (1) The department may establish **AND OPERATE** a youth
2 correctional facility which shall house only prisoners committed to
3 the jurisdiction of the department who are 19 years of age or less.
4 If the department establishes ~~or contracts with a private vendor~~
5 ~~for the operation of~~ a youth correctional facility, following
6 intake processing in a ~~department operated facility~~ **RECEPTION**

1 **CENTER**, the department shall house all male prisoners who are 16
2 years of age or less at the youth correctional facility unless the
3 department determines that the prisoner should be housed at a
4 different facility for reasons of security, safety, or because of
5 the prisoner's specialized physical or mental health care needs.

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

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

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

19 ~~—— (5) The department may establish and operate the youth~~
20 ~~correctional facility or may contract on behalf of the state with a~~
21 ~~private vendor for the construction or operation, or both, of the~~
22 ~~youth correctional facility. If the department contracts with a~~
23 ~~private vendor to construct, rehabilitate, develop, renovate, or~~
24 ~~operate any existing or anticipated facility pursuant to this~~
25 ~~section, the department shall require a written certification from~~
26 ~~the private vendor regarding all of the following:~~

27 ~~—— (a) If practicable to efficiently and effectively complete the~~

~~1 project, the private vendor shall follow a competitive bid process
2 for the construction, rehabilitation, development, or renovation of
3 the facility, and this process shall be open to all Michigan
4 residents and firms. The private vendor shall not discriminate
5 against any contractor on the basis of its affiliation or
6 nonaffiliation with any collective bargaining organization.~~

~~7 (b) The private vendor shall make a good faith effort to
8 employ, if qualified, Michigan residents at the facility.~~

~~9 (c) The private vendor shall make a good faith effort to
10 employ or contract with Michigan residents and firms to construct,
11 rehabilitate, develop, or renovate the facility.~~

~~12 (6) If the department contracts with a private vendor for the
13 operation of the youth correctional facility, the department shall
14 require by contract that the personnel employed by the private
15 vendor in the operation of the facility be certified as
16 correctional officers to the same extent as would be required if
17 those personnel were employed in a correctional facility operated
18 by the department. The department also shall require by contract
19 that the private vendor meet requirements specified by the
20 department regarding security, protection of the public,
21 inspections by the department, programming, liability and
22 insurance, conditions of confinement, educational services required
23 under subsection (11), and any other issues the department
24 considers necessary for the operation of the youth correctional
25 facility. The department shall also require that the contract
26 include provisions to protect the public's interest if the private
27 vendor defaults on the contract. Before finalizing a contract with~~

1 ~~a private vendor for the construction or operation of the youth~~
2 ~~correctional facility, the department shall submit the proposed~~
3 ~~contract to the standing committees of the senate and the house of~~
4 ~~representatives having jurisdiction of corrections issues, the~~
5 ~~corrections subcommittees of the standing committees on~~
6 ~~appropriations of the senate and the house of representatives, and,~~
7 ~~with regard to proposed construction contracts, the joint committee~~
8 ~~on capital outlay. A contract between the department and a private~~
9 ~~vendor for the construction or operation of the youth correctional~~
10 ~~facility shall be contingent upon appropriation of the required~~
11 ~~funding. If the department contracts with a private vendor under~~
12 ~~this section, the selection of that private vendor shall be by~~
13 ~~open, competitive bid.~~

14 (5) ~~—(7)—~~ The department shall not site a youth correctional
15 facility under this section in a city, village, or township unless
16 the local legislative body of that city, village, or township
17 adopts a resolution approving the location.

18 ~~—— (8) A private vendor operating a youth correctional facility~~
19 ~~under a contract under this section shall not do any of the~~
20 ~~following, unless directed to do so by the department policy:~~

21 ~~—— (a) Calculate inmate release and parole eligibility dates.~~

22 ~~—— (b) Award good time or disciplinary credits, or impose~~
23 ~~disciplinary time.~~

24 ~~—— (c) Approve inmates for extensions of limits of confinement.~~

25 (6) ~~—(9)—~~ The youth correctional facility shall be open to
26 visits during all business hours, and during nonbusiness hours
27 unless an emergency prevents it, by any elected state senator or

1 state representative.

2 (7) ~~(10)~~ Once each year, the department shall report on the
3 operation of the facility. Copies of the report shall be submitted
4 to the chairpersons of the house and senate committees responsible
5 for legislation on corrections or judicial issues, and to the clerk
6 of the house of representatives and the secretary of the senate.

7 (8) ~~(11) Regardless of whether the department itself operates~~
8 ~~the youth correctional facility or contracts with a private vendor~~
9 ~~to operate the youth correctional facility, all~~ **ALL** of the
10 following educational services shall be provided for juvenile
11 prisoners housed at the **YOUTH CORRECTIONAL** facility who have not
12 earned a high school diploma or received a general education
13 certificate (GED):

14 (a) The department ~~or private vendor~~ shall require that a
15 prisoner whose academic achievement level is not sufficient to
16 allow the prisoner to participate effectively in a program leading
17 to the attainment of a GED certificate participate in classes that
18 will prepare him or her to participate effectively in the GED
19 program, and shall provide those classes in the facility.

20 (b) The department ~~or private vendor~~ shall require that a
21 prisoner who successfully completes classes described in
22 subdivision (a), or whose academic achievement level is otherwise
23 sufficient, participate in classes leading to the attainment of a
24 GED certificate, and shall provide those classes.

25 (9) ~~(12) Neither the~~ **THE** department ~~nor the private vendor~~
26 shall **NOT** seek to have the youth correctional facility authorized
27 as a public school academy under the revised school code, 1976 PA

1 451, MCL 380.1 to 380.1852.

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

15 Sec. 29. All records and reports of investigations made by a
16 probation officer, and all case histories of probationers shall be
17 privileged or confidential communications not open to public
18 inspection. Judges and probation officers shall have access to the
19 records, reports, and case histories. The probation officer, the
20 assistant director of probation, or the assistant director's
21 representative shall permit the attorney general, the auditor
22 general, and law enforcement agencies to have access to the
23 records, reports, and case histories. ~~and shall permit designated~~
24 ~~representatives of a private vendor that operates a youth~~
25 ~~correctional facility under section 20g to have access to the~~
26 ~~records, reports, and case histories pertaining to prisoners~~
27 ~~assigned to the youth correctional facility. The relation of~~

1 confidence between the probation officer and probationer or
2 defendant under investigation shall remain inviolate.

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

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

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

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

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

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

18 (6) A prisoner under sentence for life, other than a prisoner
19 sentenced for life for murder in the first degree or sentenced for
20 life for a violation of section 16(5) or 18(7) or chapter XXXIII of
21 the Michigan penal code, 1931 PA 328, MCL 750.16, 750.18, and
22 750.200 to 750.212a, or section 17764(7) of the public health code,
23 1978 PA 368, MCL 333.17764, who has served 10 calendar years of the
24 sentence in the case of a prisoner sentenced for a crime committed
25 before October 1, 1992, or, except as provided in subsection (10),
26 who has served 20 calendar years of the sentence in the case of a
27 prisoner sentenced to imprisonment for life for violating or

1 conspiring to violate section 7401(2)(a)(i) of the public health
2 code, 1978 PA 368, MCL 333.7401, who has another conviction for a
3 serious crime, or, except as provided in subsection (10), who has
4 served 17-1/2 calendar years of the sentence in the case of a
5 prisoner sentenced to imprisonment for life for violating or
6 conspiring to violate section 7401(2)(a)(i) of the public health
7 code, 1978 PA 368, MCL 333.7401, who does not have another
8 conviction for a serious crime, or who has served 15 calendar years
9 of the sentence in the case of a prisoner sentenced for a crime
10 committed on or after October 1, 1992, is subject to the
11 jurisdiction of the parole board and may be released on parole by
12 the parole board, subject to the following conditions:

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

21 (b) In addition to the interview schedule prescribed in
22 subdivision (a), the parole board shall review the prisoner's file
23 at the conclusion of 15 calendar years of the prisoner's sentence
24 and every 5 years thereafter until the prisoner is paroled,
25 discharged, or deceased. A prisoner whose file is to be reviewed
26 under this subdivision shall be notified of the upcoming file
27 review at least 30 days before the file review takes place and

1 shall be allowed to submit written statements or documentary
2 evidence for the parole board's consideration in conducting the
3 file review.

4 (c) A decision to grant or deny parole to a prisoner so
5 sentenced shall not be made until after a public hearing held in
6 the manner prescribed for pardons and commutations in sections 44
7 and 45. Notice of the public hearing shall be given to the
8 sentencing judge, or the judge's successor in office, and parole
9 shall not be granted if the sentencing judge, or the judge's
10 successor in office, files written objections to the granting of
11 the parole within 30 days of receipt of the notice of hearing. The
12 written objections shall be made part of the prisoner's file.

13 (d) A parole granted under this subsection shall be for a
14 period of not less than 4 years and subject to the usual rules
15 pertaining to paroles granted by the parole board. A parole ordered
16 under this subsection is not valid until the transcript of the
17 record is filed with the attorney general whose certification of
18 receipt of the transcript shall be returnable to the office of the
19 parole board within 5 days. Except for medical records protected
20 under section 2157 of the revised judicature act of 1961, 1961 PA
21 236, MCL 600.2157, the file of a prisoner granted a parole under
22 this subsection is a public record.

23 (e) A parole shall not be granted under this subsection in the
24 case of a prisoner who is otherwise prohibited by law from parole
25 consideration. In such cases the interview procedures in section 44
26 shall be followed.

27 (7) An interview conducted under subsection (6)(a) is subject

1 to both of the following requirements:

2 (a) The prisoner shall be given written notice, not less than
3 30 days before the interview date, stating that the interview will
4 be conducted.

5 (b) The prisoner may be represented at the interview by an
6 individual of his or her choice. The representative shall not be
7 another prisoner. A prisoner is not entitled to appointed counsel
8 at public expense. The prisoner or representative may present
9 relevant evidence in favor of holding a public hearing as described
10 in subsection (6) (b).

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

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

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

21 (c) Any of the following:

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

1 interests of that entity.

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

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

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

14 (9) Except as provided in section 34a, a prisoner's release on
15 parole is discretionary with the parole board. The action of the
16 parole board in granting a parole is appealable by the prosecutor
17 of the county from which the prisoner was committed or the victim
18 of the crime for which the prisoner was convicted. The appeal shall
19 be to the circuit court in the county from which the prisoner was
20 committed, by leave of the court.

21 (10) If the sentencing judge, or his or her successor in
22 office, determines on the record that a prisoner described in
23 subsection (6) sentenced to imprisonment for life for violating or
24 conspiring to violate section 7401(2)(a)(i) of the public health
25 code, 1978 PA 368, MCL 333.7401, has cooperated with law
26 enforcement, the prisoner is subject to the jurisdiction of the
27 parole board and may be released on parole as provided in

1 subsection (6), 2-1/2 years earlier than the time otherwise
2 indicated in subsection (6). The prisoner is considered to have
3 cooperated with law enforcement if the court determines on the
4 record that the prisoner had no relevant or useful information to
5 provide. The court shall not make a determination that the prisoner
6 failed or refused to cooperate with law enforcement on grounds that
7 the defendant exercised his or her constitutional right to trial by
8 jury. If the court determines at sentencing that the defendant
9 cooperated with law enforcement, the court shall include its
10 determination in the judgment of sentence.

11 (11) An individual convicted of violating or conspiring to
12 violate section 7401(2)(a)(ii) or 7403(2)(a)(ii) of the public health
13 code, 1978 PA 368, MCL 333.7401 and 333.7403, before March 1, 2003
14 is eligible for parole after serving the minimum of each sentence
15 imposed for that violation or 10 years of each sentence imposed for
16 that violation, whichever is less.

17 (12) An individual convicted of violating or conspiring to
18 violate section 7401(2)(a)(iii) or 7403(2)(a)(iii) of the public health
19 code, 1978 PA 368, MCL 333.7401 and 333.7403, before March 1, 2003
20 is eligible for parole after serving the minimum of each sentence
21 imposed for that violation or 5 years of each sentence imposed for
22 that violation, whichever is less.

23 (13) An individual convicted of violating or conspiring to
24 violate section 7401(2)(a)(iv) or 7403(2)(a)(iv) of the public health
25 code, 1978 PA 368, MCL 333.7401 and 333.7403, before March 1, 2003
26 who is sentenced to a term of imprisonment that is consecutive to a
27 term of imprisonment imposed for any other violation of section

1 7401(2) (a) (i) to (iv) or section 7403(2) (a) (i) to (iv) is eligible for
2 parole after serving 1/2 of the minimum sentence imposed for each
3 violation of section 7401(2) (a) (iv) or 7403(2) (a) (iv). This
4 subsection does not apply if the sentence was imposed for a
5 conviction for a new offense committed while the individual is on
6 probation or parole.

7 (14) The parole board shall provide notice to the prosecuting
8 attorney of the county in which the individual was convicted before
9 granting parole to the individual under subsection (11), (12), or
10 (13).

11 (15) As used in this section:

12 (a) "Serious crime" means violating or conspiring to violate
13 article 7 of the public health code, 1978 PA 368, MCL 333.7101 to
14 333.7545, that is punishable by imprisonment for more than 4 years,
15 or an offense against a person in violation of section 83, 84, 86,
16 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d,
17 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA 328,
18 MCL 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.316,
19 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b,
20 750.520c, 750.520d, 750.520g, 750.529, 750.529a, and 750.530.

21 (b) "State correctional facility" means a facility that houses
22 prisoners committed to the jurisdiction of the department, and
23 includes a youth correctional facility operated under section 20g.
24 ~~by the department or a private vendor.~~

25 Sec. 63. ~~(1)~~ The wardens of the correctional facilities of
26 this state shall be appointed by the director of corrections and
27 shall be within the state civil service. The assistant director in

1 charge of the bureau of correctional facilities shall, subject to
2 the approval of the director, appoint personnel within the bureau
3 as may be necessary. Members of the staff and employees of each
4 correctional facility shall be appointed by the warden subject to
5 the approval of the director.

6 ~~—— (2) As used in this section, "correctional facility" does not~~
7 ~~include a youth correctional facility authorized under section 20g~~
8 ~~if that facility is operated by a private vendor.~~

9 Sec. 63a. (1) A person employed by the department of
10 corrections in a correctional facility who is injured as a result
11 of an assault by a prisoner housed in the correctional facility or
12 injured during a riot shall receive his or her full wages by the
13 department of corrections until worker's compensation benefits
14 begin and then shall receive in addition to worker's compensation
15 benefits a supplement from the department which together with the
16 worker's compensation benefits shall equal but not exceed the
17 weekly net wage of the employee at the time of the injury. This
18 supplement shall only apply while the person is on the department's
19 payroll and is receiving worker's compensation benefits. Fringe
20 benefits normally received by an employee shall be in effect during
21 the time the employee receives the supplement provided by this
22 section from the department.

23 ~~—— (2) Subsection (1) also applies to a person who is employed by~~
24 ~~the department of corrections who, while performing his or her~~
25 ~~duties in a youth correctional facility, is injured as a result of~~
26 ~~an assault by a prisoner housed in the youth correctional facility~~
27 ~~or is injured during a riot in the youth correctional facility.~~

1 ~~However, subsection (1) does not apply to any person employed by,~~
2 ~~or retained under contract by, a private vendor that operates a~~
3 ~~youth correctional facility.~~

4 (2) ~~(3)~~ For purposes of this section, ~~→~~

5 ~~——(a) "Correctional~~ **"CORRECTIONAL** facility" means a facility
6 that houses prisoners committed to the jurisdiction of the
7 department, including a community corrections center.

8 ~~——(b) "Youth correctional facility" means a facility authorized~~
9 ~~under section 20g.~~

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

20 (2) A prisoner who is subject to disciplinary time and is
21 committed to the jurisdiction of the department shall be confined
22 in a secure correctional facility for the duration of his or her
23 minimum sentence, except for periods when the prisoner is away from
24 the secure correctional facility while being supervised by an
25 employee of the department ~~or by an employee of a private vendor~~
26 ~~that operates a youth correctional facility under section 20g~~ for
27 1 of the following purposes:

1 (a) Visiting a critically ill relative.

2 (b) Attending the funeral of a relative.

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

5 (d) Participating in a work detail.

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

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

1 transfer.

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

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

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

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

12 Sec. 69a. (1) A visitor to a state correctional facility shall
13 not be subjected to a pat down search unless every person
14 performing or assisting in performing the pat down search is of the
15 same sex as the person being searched. If the necessary personnel
16 are not readily available, a visitor at his or her option may sign
17 a waiver provided by the department of corrections, waiving the
18 provisions of this subsection.

19 (2) As used in this section, ~~→~~

20 ~~—— (a) "Pat~~ **"PAT** down search" means a search of a person in
21 which the person conducting the search touches the body or
22 clothing, or both, of the person being searched to detect the
23 presence of concealed objects.

24 ~~—— (b) "State correctional facility" includes a youth~~
25 ~~correctional facility operated under section 20g by the department~~
26 ~~or a private vendor.~~

27 Sec. 70. (1) A correctional facility may monitor telephone

1 communications over telephones available for use by prisoners in
2 the correctional facility if all of the following conditions are
3 met:

4 (a) The director promulgates rules under which the monitoring
5 is to be conducted, and the monitoring is conducted in accordance
6 with those rules. The rules shall include provisions for minimizing
7 the intrusiveness of the monitoring and shall prescribe a procedure
8 by which a prisoner may make telephone calls to his or her
9 attorney, and any federal, state, or local public official if
10 requested by that public official, that are not monitored.

11 (b) The monitoring is routinely conducted for the purpose of
12 preserving the security and orderly management of the correctional
13 facility, interdicting drugs and other contraband, and protecting
14 the public, and is performed by employees of the department. ~~or,~~
15 ~~in the case of a youth correctional facility operated by a private~~
16 ~~vendor under section 20g, is conducted by employees of the private~~
17 ~~vendor.~~

18 (c) Notices are prominently posted on or near each telephone
19 subject to monitoring informing users of the telephone that
20 communications over the telephone may be monitored.

21 (d) In addition to the posting of notices under subdivision
22 (c), the prisoners in the correctional facility are given
23 reasonable notice of the rules promulgated under subdivision (a).

24 (e) Each party to the conversation is notified by voice that
25 the conversation is being monitored.

26 (2) A correctional facility shall disclose information
27 obtained pursuant to this section regarding a crime or attempted

1 crime to any law enforcement agency having jurisdiction over that
2 crime or attempted crime.

3 (3) Evidence obtained pursuant to this section regarding a
4 crime or attempted crime may be considered as evidence in a
5 criminal prosecution for that crime or attempted crime.

6 (4) As used in this section, ~~→~~

7 ~~—— (a) "Correctional facility" includes a youth correctional~~
8 ~~facility operated under section 20g by the department or a private~~
9 ~~vendor.~~

10 ~~—— (b) "Monitor"~~ **"MONITOR"** means to listen to or record, or
11 both.