

# SENATE BILL No. 827

September 16, 2009, Introduced by Senator CROPSEY and referred to the Committee on Judiciary.

A bill to amend 1953 PA 232, entitled  
"Corrections code of 1953,"  
by amending sections 33, 33e, 34, and 35 (MCL 791.233, 791.233e,  
791.234, and 791.235), section 33 as amended by 1998 PA 320,  
section 33e as added by 1992 PA 181, section 34 as amended by 2006  
PA 167, and section 35 as amended by 1998 PA 315, and by adding  
section 32a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1        SEC. 32A. AS USED IN SECTIONS 33, 33E, AND 35, "VALIDATED RISK  
2        ASSESSMENT INSTRUMENT" MEANS AN OBJECTIVE AND COMPREHENSIVE  
3        ANALYSIS OF A PRISONER'S CRIMINAL HISTORY AND BACKGROUND, AND HIS  
4        OR HER BEHAVIOR WHILE IN THE CORRECTIONAL FACILITY, WHICH IS USED  
5        TO VALIDLY PREDICT THE RISK THE PRISONER WOULD PRESENT TO THE  
6        PUBLIC SAFETY IF AND WHEN HE OR SHE IS RELEASED.

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

3       (a) A prisoner shall 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~~ **REPORT OF A VALIDATED RISK ASSESSMENT INSTRUMENT**, that the  
7 prisoner will not become a menace to society or to the public  
8 safety.

9       (b) Except as provided in section 34a, a parole shall not be  
10 granted to a prisoner other than a prisoner subject to disciplinary  
11 time until the prisoner has served the minimum term imposed by the  
12 court less allowances for good time or special good time to which  
13 the prisoner may be entitled by statute, except that a prisoner  
14 other than a prisoner subject to disciplinary time is eligible for  
15 parole before the expiration of his or her minimum term of  
16 imprisonment whenever the sentencing judge, or the judge's  
17 successor in office, gives written approval of the parole of the  
18 prisoner before the expiration of the minimum term of imprisonment.

19       (c) Except as provided in section 34a, and notwithstanding the  
20 provisions of subdivision (b), a parole shall not be granted to a  
21 prisoner other than a prisoner subject to disciplinary time  
22 sentenced for the commission of a crime described in section 33b(a)  
23 to (cc) until the prisoner has served the minimum term imposed by  
24 the court less an allowance for disciplinary credits as provided in  
25 section 33(5) of 1893 PA 118, MCL 800.33. A prisoner described in  
26 this subdivision is not eligible for special parole.

27       (d) Except as provided in section 34a, a parole shall not be

1 granted to a prisoner subject to disciplinary time until the  
2 prisoner has served the minimum term imposed by the court.

3 ~~(e) A prisoner shall not be released on parole until the~~  
4 ~~parole board has satisfactory evidence that arrangements have been~~  
5 ~~made~~ **THE DEPARTMENT SHALL IMPLEMENT AND ADMINISTER EVIDENCE-BASED**  
6 **PROGRAMMING IN RESPONSE TO VALIDATED ASSESSMENT INSTRUMENTS TO**  
7 **ENSURE THAT PRISONERS ARE PREPARED** for such honorable and useful  
8 employment as the prisoner is capable of performing, for the  
9 prisoner's education, or for the prisoner's care if the prisoner is  
10 mentally or physically ill or incapacitated. **THE PAROLE BOARD SHALL**  
11 **IMPOSE CONDITIONS OF PAROLE AS REQUIRED TO ENSURE THAT EACH**  
12 **PRISONER PARTICIPATES IN EVIDENCE-BASED PROGRAMMING IDENTIFIED BY**  
13 **THE DEPARTMENT AND DESIGNED TO ADDRESS THE PRISONER'S EDUCATIONAL,**  
14 **VOCATIONAL, AND SOCIAL NEEDS, INCLUDING OBTAINING A HIGH SCHOOL**  
15 **DIPLOMA OR GENERAL EDUCATIONAL DEVELOPMENT (GED) CERTIFICATE.**

16 ~~—— (f) A prisoner whose minimum term of imprisonment is 2 years~~  
17 ~~or more shall not be released on parole unless he or she has either~~  
18 ~~earned a high school diploma or earned its equivalent in the form~~  
19 ~~of a general education development (GED) certificate. The director~~  
20 ~~of the department may waive the restriction imposed by this~~  
21 ~~subdivision as to any prisoner who is over the age of 65 or who was~~  
22 ~~gainfully employed immediately before committing the crime for~~  
23 ~~which he or she was incarcerated. The department of corrections may~~  
24 ~~also waive the restriction imposed by this subdivision as to any~~  
25 ~~prisoner who has a learning disability, who does not have the~~  
26 ~~necessary proficiency in English, or who for some other reason that~~  
27 ~~is not the fault of the prisoner is unable to successfully complete~~

~~the requirements for a high school diploma or a general education development certificate. If the prisoner does not have the necessary proficiency in English, the department of corrections shall provide English language training for that prisoner necessary for the prisoner to begin working toward the completion of the requirements for a general education development certificate. This subdivision applies to prisoners sentenced for crimes committed after December 15, 1998. In providing an educational program leading to a high school degree or general education development certificate, the department shall give priority to prisoners sentenced for crimes committed on or before December 15, 1998.~~

(2) EXCEPT AS PROVIDED IN SECTION 34A AND SUBSECTION (3), A PRISONER WHO HAS A PAROLE GUIDELINE OF HIGH OR AVERAGE PROBABILITY UNDER SECTION 33E SHALL BE PLACED ON PAROLE WHEN THE PRISONER HAS SERVED THE MINIMUM SENTENCE IMPOSED BY THE COURT LESS ANY APPLICABLE GOOD TIME ALLOWANCES OR DISCIPLINARY CREDITS, EXCEPT THAT THE PAROLE BOARD MAY DEFER A PRISONER'S PAROLE UNTIL AFTER THAT DATE, BUT NOT LATER THAN THE DATE ON WHICH HE OR SHE HAS SERVED 120% OF THE MINIMUM SENTENCE, FOR EITHER OF THE FOLLOWING REASONS:

(A) TO ALLOW THE PRISONER TO COMPLETE REQUIRED PROGRAMS THAT ARE DETERMINED BY THE DEPARTMENT OR THE PAROLE BOARD TO REDUCE THE RISK TO THE PUBLIC SAFETY FROM THE PRISONER'S RELEASE.

(B) TO ALLOW A PERIOD OF TIME FOR THE PRISONER TO DEMONSTRATE POSITIVE INSTITUTIONAL CONDUCT.

(3) SUBSECTION (2) DOES NOT APPLY TO ANY OF THE FOLLOWING PRISONERS:

1 (A) A PRISONER SENTENCED FOR A FELONY FOR WHICH THE MAXIMUM  
2 PENALTY IS IMPRISONMENT FOR LIFE.

3 (B) A PRISONER WHO HAS PENDING FELONY CHARGES OR DETAINERS.

4 (C) A PRISONER WHO WAS INTERVIEWED BY THE PAROLE BOARD AND  
5 DENIED PAROLE UNDER SECTION 33E(5).

6 (4) ANY PRISONER NOT PLACED ON PAROLE UNDER SUBSECTION (2) WHO  
7 HAS SERVED HIS OR HER MINIMUM SENTENCE SHALL BE PLACED ON PAROLE  
8 NOT LATER THAN 9 MONTHS BEFORE THE EXPIRATION OF THE PRISONER'S  
9 MAXIMUM SENTENCE IN ORDER TO ENSURE A PERIOD OF INTENSIVE  
10 SUPERVISION IN THE COMMUNITY.

11 (5) A PRISONER WHOSE PAROLE IS RESCINDED UNDER SECTION 41  
12 SHALL BE PLACED ON PAROLE AGAIN NOT MORE THAN 9 MONTHS FOLLOWING  
13 THE DATE ON WHICH PAROLE WAS RESCINDED, UNLESS THE PRISONER'S  
14 CONDUCT THAT LED TO THE PAROLE RESCISSION INVOLVED POSSESSION OR  
15 USE OF A WEAPON OR INJURY TO A VICTIM, OR RESULTED FROM A SECOND OR  
16 SUBSEQUENT PAROLE VIOLATION, IN WHICH CASE THE PAROLE BOARD SHALL  
17 PLACE THE PRISONER ON PAROLE AGAIN AT ITS DISCRETION.

18 (6) ~~(2)~~ Paroles-in-custody to answer warrants filed by local  
19 or out-of-state agencies, or immigration officials, are permissible  
20 if an accredited agent of the agency filing the warrant calls for  
21 the prisoner to be paroled in custody.

22 (7) ~~(3)~~ Pursuant to the administrative procedures act of 1969,  
23 1969 PA 306, MCL 24.201 to 24.328, the parole board may promulgate  
24 rules not inconsistent with this act with respect to conditions to  
25 be imposed upon prisoners paroled under this act.

26 Sec. 33e. (1) The department shall develop parole guidelines  
27 that are consistent with section 33(1)(a) and that shall govern the

exercise of the parole board's discretion pursuant to sections 34 and 35 as to the release of prisoners on parole under this act. The purpose of the parole guidelines shall be to assist the parole board in making release decisions that enhance the public safety.

(2) In developing the parole guidelines, the department shall **USE A VALIDATED RISK ASSESSMENT INSTRUMENT. THE DEPARTMENT SHALL** consider factors including, but not limited to, the following **IN THE DEVELOPMENT OF THE PAROLE GUIDELINES:**

~~\_\_\_\_\_ (a) The offense for which the prisoner is incarcerated at the time of parole consideration.~~

(A) ~~(b)~~ The prisoner's institutional program performance.

(B) ~~(c)~~ The prisoner's institutional conduct.

(C) ~~(d)~~ The prisoner's prior criminal record. As used in this subdivision, "prior criminal record" means the recorded criminal history of a prisoner, including all misdemeanor and felony convictions, probation violations, juvenile adjudications for acts that would have been crimes if committed by an adult, parole failures, and delayed sentences.

(D) ~~(e)~~ Other relevant factors as determined by the department, if not otherwise prohibited by law.

~~\_\_\_\_\_ (3) In developing the parole guidelines, the department may consider both of the following factors:~~

~~\_\_\_\_\_ (a) The prisoner's statistical risk screening.~~

~~\_\_\_\_\_ (b) The prisoner's age.~~

(3) ~~(4)~~ The department shall ensure that the parole guidelines do not create disparities in release decisions based on race, color, national origin, gender, religion, or disability.

1       (4) ~~(5)~~ The department shall promulgate rules pursuant to the  
2 administrative procedures act of 1969, ~~Act No. 306 of the Public~~  
3 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~  
4 ~~Compiled Laws 1969 PA 306, MCL 24.201 TO 24.328~~, which shall  
5 prescribe the parole guidelines. ~~The department shall submit the~~  
6 ~~proposed rules to the joint committee on administrative rules not~~  
7 ~~later than April 1, 1994. Until the rules take effect, the director~~  
8 ~~shall require that the parole guidelines be considered by the~~  
9 ~~parole board in making release decisions. After the rules take~~  
10 ~~effect, the director shall require that the parole board follow the~~  
11 ~~parole guidelines.~~

12       (5) ~~(6)~~ The parole board may depart from the parole guidelines  
13 by denying parole to a prisoner who has a high probability of  
14 parole as determined under the parole guidelines or by granting  
15 parole to a prisoner who has a low probability of parole as  
16 determined under the parole guidelines. ~~A departure under this~~  
17 ~~subsection shall be for substantial and compelling reasons stated~~  
18 ~~in writing.~~ The parole board shall not use a prisoner's gender,  
19 race, ethnicity, alienage, national origin, or religion to depart  
20 from the recommended parole guidelines. **THE FOLLOWING ARE THE ONLY**  
21 **REASONS FOR DEPARTING FROM A PAROLE GUIDELINE OF HIGH PROBABILITY**  
22 **OF PAROLE:**

23       (A) THE PRISONER'S CURRENT PSYCHOLOGICAL STATE AS DETERMINED  
24 BY A PSYCHIATRIST BASED ON A DIAGNOSIS OF SERIOUS MENTAL ILLNESS  
25 AND PSYCHOPATHOLOGY WOULD POSE A SIGNIFICANT RISK TO THE PUBLIC  
26 SAFETY IF THE PRISONER WERE RELEASED TO PAROLE.

27       (B) THE PRISONER HAS DEMONSTRATED CONTINUED RISK TO THE PUBLIC

1 SAFETY THROUGH SERIOUS INSTITUTIONAL MISCONDUCT.

2 (C) THE PRISONER IS SERVING A SENTENCE FOR WHICH THE MAXIMUM  
3 PENALTY IS IMPRISONMENT FOR LIFE.

4 (D) THE PRISONER HAS PENDING FELONY CHARGES OR DETAINERS.

5 (E) A VALIDATED RISK ASSESSMENT INSTRUMENT HAS DEEMED THAT THE  
6 PRISONER'S RISK OF REOFFENDING IS HIGH, IN THE ABSENCE OF A REENTRY  
7 PLAN SUCH THAT THE PRISONER CANNOT BE EFFECTIVELY MANAGED IN THE  
8 COMMUNITY.

9 (6) ~~(7)~~—Not less than once every 2 years, the department shall  
10 review the correlation between the implementation of the parole  
11 guidelines and the recidivism rate of paroled prisoners, and shall  
12 submit to the joint committee on administrative rules any proposed  
13 revisions to the administrative rules that the department considers  
14 appropriate after conducting the review.

15 Sec. 34. (1) Except as provided in section 34a, a prisoner  
16 sentenced to an indeterminate sentence and confined in a state  
17 correctional facility with a minimum in terms of years other than a  
18 prisoner subject to disciplinary time is subject to the  
19 jurisdiction of the parole board when the prisoner has served a  
20 period of time equal to the minimum sentence imposed by the court  
21 for the crime of which he or she was convicted, less good time and  
22 disciplinary credits, if applicable.

23 (2) Except as provided in section 34a, a prisoner subject to  
24 disciplinary time sentenced to an indeterminate sentence and  
25 confined in a state correctional facility with a minimum in terms  
26 of years is subject to the jurisdiction of the parole board when  
27 the prisoner has served a period of time equal to the minimum



1 sentence imposed by the court for the crime of which he or she was  
2 convicted.

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

15 (4) If a prisoner subject to disciplinary time is sentenced  
16 for consecutive terms, whether received at the same time or at any  
17 time during the life of the original sentence, the parole board has  
18 jurisdiction over the prisoner for purposes of parole when the  
19 prisoner has served the total time of the added minimum terms. The  
20 maximum terms of the sentences shall be added to compute the new  
21 maximum term under this subsection, and discharge shall be issued  
22 only after the total of the maximum sentences has been served,  
23 unless the prisoner is paroled and discharged upon satisfactory  
24 completion of the parole.

25 (5) If a prisoner other than a prisoner subject to  
26 disciplinary time has 1 or more consecutive terms remaining to  
27 serve in addition to the term he or she is serving, the parole

1 board may terminate the sentence the prisoner is presently serving  
2 at any time after the minimum term of the sentence has been served.

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

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

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

10 (c) A violation of chapter XXXIII of the Michigan penal code,  
11 1931 PA 328, MCL 750.200 to 750.212a.

12 (d) A violation of section 17764(7) of the public health code,  
13 1978 PA 368, MCL 333.17764.

14 (e) First degree criminal sexual conduct in violation of  
15 section 520b(2)(c) of the Michigan penal code, 1931 PA 328, MCL  
16 750.520b.

17 (f) Any other violation for which parole eligibility is  
18 expressly denied under state law.

19 (7) A prisoner sentenced to imprisonment for life, other than  
20 a prisoner described in subsection (6), is subject to the  
21 jurisdiction of the parole board and may be placed on parole  
22 according to the conditions prescribed in subsection (8) if he or  
23 she meets any of the following criteria:

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

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

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

10 (8) A parole granted to a prisoner under subsection (7) is  
11 subject to the following conditions:

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

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

1 evidence for the parole board's consideration in conducting the  
2 file review.

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

12 (d) A parole granted under subsection (7) shall be for a  
13 period of not less than 4 years and subject to the usual rules  
14 pertaining to paroles granted by the parole board. A parole granted  
15 under subsection (7) is not valid until the transcript of the  
16 record is filed with the attorney general whose certification of  
17 receipt of the transcript shall be returnable to the office of the  
18 parole board within 5 days. Except for medical records protected  
19 under section 2157 of the revised judicature act of 1961, 1961 PA  
20 236, MCL 600.2157, the file of a prisoner granted a parole under  
21 subsection (7) is a public record.

22 (9) An interview conducted under subsection (8)(a) is subject  
23 to both of the following requirements:

24 (a) The prisoner shall be given written notice, not less than  
25 30 days before the interview date, stating that the interview will  
26 be conducted.

27 (b) The prisoner may be represented at the interview by an

1 individual of his or her choice. The representative shall not be  
2 another prisoner. A prisoner is not entitled to appointed counsel  
3 at public expense. The prisoner or representative may present  
4 relevant evidence in favor of holding a public hearing as allowed  
5 in subsection (8)(b).

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

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

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

16 (c) Any of the following:

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

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

1 whether the violation for which the individual was convicted was  
2 committed to further the interests of that entity.

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

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

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

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

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

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

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

18 (15) An individual convicted of violating or conspiring to  
19 violate section 7401(2)(a)(iv) or 7403(2)(a)(iv) of the public health  
20 code, 1978 PA 368, MCL 333.7401 and 333.7403, before March 1, 2003  
21 who is sentenced to a term of imprisonment that is consecutive to a  
22 term of imprisonment imposed for any other violation of section  
23 7401(2)(a)(i) to (iv) or section 7403(2)(a)(i) to (iv) is eligible for  
24 parole after serving 1/2 of the minimum sentence imposed for each  
25 violation of section 7401(2)(a)(iv) or 7403(2)(a)(iv). This  
26 subsection does not apply if the sentence was imposed for a  
27 conviction for a new offense committed while the individual is on

1 probation or parole.

2 (16) The parole board shall provide notice to the prosecuting  
3 attorney of the county in which the individual was convicted before  
4 granting parole to the individual under subsection (13), (14), or  
5 (15).

6 (17) As used in this section:

7 (a) "Serious crime" means violating or conspiring to violate  
8 article 7 of the public health code, 1978 PA 368, MCL 333.7101 to  
9 333.7545, that is punishable by imprisonment for more than 4 years,  
10 or an offense against a person in violation of section 83, 84, 86,  
11 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d,  
12 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA 328,  
13 MCL 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.316,  
14 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b,  
15 750.520c, 750.520d, 750.520g, 750.529, 750.529a, and 750.530.

16 (b) "State correctional facility" means a facility that houses  
17 prisoners committed to the jurisdiction of the department. ~~and~~  
18 ~~includes a youth correctional facility operated under section 20g~~  
19 ~~by the department or a private vendor.~~

20 Sec. 35. (1) ~~The release of a prisoner on parole shall be~~  
21 ~~granted solely upon the initiative of the parole board. The parole~~  
22 ~~board may grant a parole without interviewing the prisoner -~~  
23 ~~However, beginning on the date on which the administrative rules~~  
24 ~~prescribing parole guidelines pursuant to section 33e(5) take~~  
25 ~~effect, the parole board may grant a parole without interviewing~~  
26 ~~the prisoner only if, after evaluating the prisoner according to~~  
27 ~~the parole guidelines, the parole board determines that the~~



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

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

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

24 (2) ~~Beginning on the date on which the administrative rules~~  
25 ~~prescribing the parole guidelines take effect pursuant to section~~  
26 ~~33e(5) JANUARY 26, 1996~~, if, after evaluating a prisoner according  
27 to the parole guidelines, the parole board determines that the

1 prisoner has a low probability of being paroled and the parole  
2 board therefore does not intend to parole the prisoner, the parole  
3 board shall not be required to interview the prisoner before  
4 denying parole to the prisoner.

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

7 (a) A prisoner's marital history.

8 (b) Prior arrests not resulting in conviction or adjudication  
9 of delinquency.

10 (4) If an interview is to be conducted, the prisoner shall be  
11 sent a notice of intent to conduct an interview at least 1 month  
12 before the date of the interview. The notice shall state the  
13 specific issues and concerns that shall be discussed at the  
14 interview and that may be a basis for a denial of parole. A denial  
15 of parole shall not be based on reasons other than those stated in  
16 the notice of intent to conduct an interview except for good cause  
17 stated to the prisoner at or before the interview and in the  
18 written explanation required by subsection (12). This subsection  
19 does not apply until April 1, 1983.

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

26 (6) A prisoner may waive the right to an interview by 1 member  
27 of the parole board. The waiver of the right to be interviewed

1 shall be given not more than 30 days after the notice of intent to  
2 conduct an interview is issued and shall be made in writing. During  
3 the interview held pursuant to a notice of intent to conduct an  
4 interview, the prisoner may be represented by an individual of his  
5 or her choice. The representative shall not be another prisoner or  
6 an attorney. A prisoner is not entitled to appointed counsel at  
7 public expense. The prisoner or representative may present relevant  
8 evidence in support of release. This subsection does not apply  
9 until April 1, 1983.

10 (7) At least 90 days before the expiration of the prisoner's  
11 minimum sentence less applicable good time and disciplinary credits  
12 for a prisoner eligible for good time or disciplinary credits, or  
13 at least 90 days before the expiration of the prisoner's minimum  
14 sentence for a prisoner subject to disciplinary time, or the  
15 expiration of a 12-month continuance for any prisoner, a parole  
16 eligibility report shall be prepared by appropriate institutional  
17 staff. The parole eligibility report shall be considered pertinent  
18 information for purposes of subsection (5). The report shall  
19 include all of the following:

20 (a) A statement of all major misconduct charges of which the  
21 prisoner was found guilty and the punishment served for the  
22 misconduct.

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

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

26 **(D) THE RESULTS ON ANY VALIDATED RISK ASSESSMENT INSTRUMENTS.**

27 **(E) ~~(d)~~—Whether the prisoner fully cooperated with the state**

1 by providing complete financial information as required under  
2 section 3a of the state correctional facility reimbursement act,  
3 1935 PA 253, MCL 800.403a.

4 (F) ~~(e)~~—For a prisoner subject to disciplinary time, a  
5 statement of all disciplinary time submitted for the parole board's  
6 consideration pursuant to section 34 of 1893 PA 118, MCL 800.34.

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

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

14 (10) The parole board may grant a medical parole for a  
15 prisoner determined to be physically or mentally incapacitated. A  
16 decision to grant a medical parole shall be initiated upon the  
17 recommendation of the bureau of health care services and shall be  
18 reached only after a review of the medical, institutional, and  
19 criminal records of the prisoner.

20 (11) The department shall submit a petition to the appropriate  
21 court under section 434 of the mental health code, 1974 PA 258, MCL  
22 330.1434, for any prisoner being paroled or being released after  
23 serving his or her maximum sentence whom the department considers  
24 to be a person requiring treatment. The parole board shall require  
25 mental health treatment as a special condition of parole for any  
26 parolee whom the department has determined to be a person requiring  
27 treatment whether or not the petition filed for that prisoner is

1 granted by the court. As used in this subsection, "person requiring  
2 treatment" means that term as defined in section 401 of the mental  
3 health code, 1974 PA 258, MCL 330.1401.

4 (12) When the parole board makes a final determination not to  
5 release a prisoner, the prisoner shall be provided with a written  
6 explanation of the reason for denial and, if appropriate, specific  
7 recommendations for corrective action the prisoner may take to  
8 facilitate release.

9 (13) This section does not apply to the placement on parole of  
10 a person in conjunction with special alternative incarceration  
11 under section 34a(7).

12 Enacting section 1. This amendatory act does not take effect  
13 unless Senate Bill No. 826

14 of the 95th Legislature is enacted into law.