

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 878

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending sections 20i, 29, 63, 63a, 65, 65a, 69a, and 70 (MCL
791.220i, 791.229, 791.263, 791.263a, 791.265, 791.265a, 791.269a,
and 791.270), section 20i as added by 2006 PA 351, section 29 as
amended by 2010 PA 248, sections 63, 63a, 65, 69a, and 70 as
amended by 1998 PA 512, and section 65a as amended by 1998 PA 315,
and by adding section 20j.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 20i. (1) If the ~~Michigan youth~~ correctional facility
2 ~~established pursuant to~~ **DESCRIBED IN** section 20g in ~~Webber~~
3 ~~township, Lake county, Michigan,~~ is not utilized by the department
4 for housing inmates or detainees under the ~~jurisdiction of the~~

1 ~~department, TERMS OF SECTION 20G,~~ the private ~~vender~~ **CONTRACTOR**
2 that operates ~~the Michigan youth~~ **THAT** correctional facility may
3 utilize the facility for housing, custody, and care of detainees or
4 inmates from ~~other local, state, or federal agencies,~~ **ANY OF THE**
5 **FOLLOWING AGENCIES,** either by directly contracting with those
6 local, state, or federal agencies or by having 1 or more local,
7 state, or federal agencies enter into an interlocal agreement with
8 ~~Webber~~ **THE** township ~~, Lake~~ **OR** county **IN WHICH THE FACILITY IS**
9 **LOCATED,** or the county sheriff for ~~Lake~~ **THE** county **IN WHICH THE**
10 **FACILITY IS LOCATED,** who in turn may contract with the private
11 ~~vender~~ **CONTRACTOR** for services to be provided under the terms of
12 the interlocal agreement, subject to the requirements of this
13 section: -

14 (A) **OTHER LOCAL, STATE, OR FEDERAL AGENCIES.**

15 (B) **THE DEPARTMENT IF THE DETAINEES OR INMATES ARE OLDER THAN**
16 **19 YEARS OF AGE AND UNDER THE JURISDICTION OF THE DEPARTMENT.**

17 (2) If all contractual factors regarding potential inmates or
18 detainees are equal, the private ~~vender~~ **CONTRACTOR** shall give
19 preference to the admission of inmates or detainees sent from
20 agencies within this state, **INCLUDING THE DEPARTMENT.**

21 (3) ~~(2)~~ Any contract under this section for the housing,
22 custody, and care of detainees or inmates from other local, state,
23 or federal agencies shall require all of the following:

24 (a) The private ~~vender~~ **CONTRACTOR** that operates the facility
25 shall do all of the following:

26 (i) Obtain accreditation of the facility by the American
27 correctional association within 24 months after the private ~~vender~~

1 **CONTRACTOR** commences operations at the facility and maintain that
2 accreditation throughout the term of any contract for the use of
3 the facility.

4 (ii) Operate the facility in compliance with the applicable
5 standards of the American correctional association.

6 (b) The personnel employed by the private ~~vender~~**CONTRACTOR** in
7 the operation of the facility shall meet the employment and
8 training requirements set forth in the applicable standards of the
9 American correctional association, and also shall meet any higher
10 training and employment standards that may be mandated under a
11 contract between the private ~~vender~~**CONTRACTOR** and a local, state,
12 or federal agency that sends inmates or detainees to the facility.

13 (c) Any serious incident that occurs at the facility shall be
14 reported immediately to the sheriff of ~~Lake~~**THE** county and the
15 state police.

16 (4) ~~(3)~~An inmate or detainee housed at the facility shall not
17 participate in work release, a work camp, or another similar
18 program or activity occurring outside the secure perimeter of the
19 facility **WITHOUT THE AUTHORIZATION OF THE INITIATING JURISDICTION.**

20 (5) ~~(4)~~The facility shall allow the presence of on-site
21 monitors from any local, state, or federal agency that sends
22 inmates or detainees to the facility, for the purpose of monitoring
23 the conditions of confinement of those inmates or detainees.
24 Whenever the private ~~vender~~**CONTRACTOR** submits a written report to
25 a local, state, or federal agency that sends inmates or detainees
26 to the facility, the private ~~vender~~**CONTRACTOR** shall send copies of
27 the written report to the township supervisor, ~~for Webber township,~~

1 the board of county commissioners, ~~for Lake county,~~ the COUNTY
2 sheriff, ~~of Lake county,~~ and the department.

3 (6) ~~(5)~~—Personnel employed at the facility by the private
4 ~~vender~~—CONTRACTOR who have met the employment and training
5 requirements set forth in the applicable standards of the American
6 correctional association have full authority to perform their
7 duties and responsibilities under law, including, but not limited
8 to, exercising the use of force in the same manner and to the same
9 extent as would be authorized if those personnel were employed in a
10 correctional facility operated by the department.

11 (7) ~~(6)~~—A contract with a local, state, or federal agency that
12 sends inmates or detainees to the facility shall not require,
13 authorize, or imply a delegation of the authority or responsibility
14 to the private ~~vender~~—CONTRACTOR to do any of the following:

15 (a) Develop or implement procedures for calculating inmate
16 release and parole eligibility dates or recommending the granting
17 or denying of parole, although the private ~~vender~~—CONTRACTOR may
18 submit written reports that have been prepared in the ordinary
19 course of business.

20 (b) Develop or implement procedures for calculating and
21 awarding earned credits, including good time credits, disciplinary
22 credits, or similar credits affecting the length of an inmate's
23 incarceration, approving the type of work inmates may perform and
24 the wage or earned credits, if any, that may be awarded to inmates
25 engaging in that work, and granting, denying, or revoking earned
26 credits.

27 (8) ~~(7)~~—An inmate or detainee shall not be housed at the

1 facility unless the security classification of the inmate or
2 detainee, as it would be determined by the department if he or she
3 were being housed in a state correctional facility, is level IV or
4 below, and has never previously been above level IV.

5 (9) ~~(8)~~—Inmates and detainees shall be transferred to and from
6 the facility in a secure manner. Any inmate or detainee housed at
7 the facility who was sent from another state, a local agency
8 outside this state, or the federal government shall be returned to
9 the agency that sent the inmate or detainee upon completion of the
10 inmate's or detainee's term of incarceration in the facility and
11 shall not be released from custody within this state.

12 (10) ~~(9)~~—The department of corrections is not responsible for
13 oversight of the facility. This state, or any department or agency
14 of this state, is not civilly liable for damages arising out of the
15 operation of the facility.

16 (11) ~~(10)~~—As used in this section:

17 (a) "Facility" means the former Michigan youth correctional
18 facility described in subsection (1).

19 (b) "Security classification" means 1 of 6 levels of
20 restrictiveness enforced in housing units at each state
21 correctional facility, as determined by the department, with
22 security level I being the least restrictive and security level VI
23 being the most restrictive.

24 (c) "Serious incident" means a disturbance at the facility
25 involving 5 or more inmates or detainees, a death of an inmate or
26 detainee, a felony or attempted felony committed within the
27 facility, or an escape or attempted escape from the facility.

Senate Bill No. 878 (H-3) as amended December 14, 2012

1 SEC. 20J. (1) THIS ACT DOES NOT PROHIBIT THE DEPARTMENT FROM
 2 CONTRACTING WITH AN OPERATOR OF A PRIVATELY OWNED CORRECTIONAL
 3 FACILITY TO HOUSE AND MANAGE INMATES UNDER THE JURISDICTION OF THE
 4 DEPARTMENT [IF

5] THE CONTRACT WILL RESULT IN AN ANNUAL COST
 6 SAVINGS OF AT LEAST 10% TO THE STATE. [THE DEPARTMENT SHALL ANNUALLY
 7 DOCUMENT AND REPORT THE SAVINGS TO THE LEGISLATURE.]

8 (2) IF THE DEPARTMENT CONTRACTS WITH A PRIVATELY OWNED
 9 CORRECTIONAL FACILITY, THE CONTRACTOR SHALL INTERVIEW AND CONSIDER
 10 FOR EMPLOYMENT EMPLOYEES OR FORMER EMPLOYEES OF THE DEPARTMENT WHO
 11 LOSE OR REASONABLY EXPECT TO LOSE THEIR POSITION OF EMPLOYMENT WITH
 12 THE DEPARTMENT AS A RESULT OF PRISON CLOSURES. THE CONTRACTOR SHALL
 13 ALSO GIVE CONSIDERATION TO THE HIRING OF UNEMPLOYED NATIONAL GUARD
 14 AND RESERVE OFFICERS AND MILITARY PERSONNEL WHO ARE RETURNING TO
 15 THIS STATE FOLLOWING ACTIVE DEPLOYMENT. THIS SECTION DOES NOT
 16 CREATE A PROPERTY INTEREST IN EMPLOYMENT.

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

1 ~~section 20g~~ **FACILITY OR INSTITUTION THAT HOUSES PRISONERS UNDER THE**
2 **JURISDICTION OF THE DEPARTMENT** to have access to the records,
3 reports, and case histories pertaining to prisoners assigned to ~~the~~
4 ~~youth correctional~~ **THAT** facility. The relation of confidence
5 between the probation officer and probationer or defendant under
6 investigation shall remain inviolate.

7 Sec. 63. (1) The wardens of the correctional facilities of
8 this state shall be appointed by the director of corrections and
9 shall be within the state civil service. The assistant director in
10 charge of the bureau of correctional facilities shall, subject to
11 the approval of the director, appoint personnel within the bureau
12 as may be necessary. Members of the staff and employees of each
13 correctional facility shall be appointed by the warden subject to
14 the approval of the director.

15 (2) As used in this section, "correctional facility" does not
16 include a ~~youth correctional facility authorized under~~ **DESCRIBED IN**
17 section 20g **OR 20J** if that facility is operated by a private
18 ~~vendor~~ **CONTRACTOR**.

19 Sec. 63a. (1) A person employed by the department of
20 corrections in a correctional facility who is injured as a result
21 of an assault by a prisoner housed in the correctional facility or
22 injured during a riot shall receive his or her full wages by the
23 department of corrections until worker's compensation benefits
24 begin and then shall receive in addition to worker's compensation
25 benefits a supplement from the department which together with the
26 worker's compensation benefits shall equal but not exceed the
27 weekly net wage of the employee at the time of the injury. This

1 supplement shall only apply while the person is on the department's
 2 payroll and is receiving worker's compensation benefits. Fringe
 3 benefits normally received by an employee shall be in effect during
 4 the time the employee receives the supplement provided by this
 5 section from the department.

6 (2) Subsection (1) also applies to a person who is employed by
 7 the department of corrections who, while performing his or her
 8 duties in a ~~youth~~-correctional facility **DESCRIBED IN SECTION 20G OR**
 9 **20J**, is injured as a result of an assault by a prisoner housed in
 10 ~~the youth~~-**THAT** correctional facility or is injured during a riot in
 11 ~~the youth~~-**THAT** correctional facility. However, subsection (1) does
 12 not apply to any person employed by, or retained under contract by,
 13 a private ~~vender~~-**CONTRACTOR** that operates a ~~youth~~-correctional
 14 facility **DESCRIBED IN SECTION 20G OR 20J**.

15 (3) For purposes of this section, ÷

16 ~~(a) "Correctional facility"~~-**"CORRECTIONAL FACILITY"** means a
 17 facility that houses prisoners committed to the jurisdiction of the
 18 department, including a community corrections center.

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

21 Sec. 65. (1) Under rules promulgated by the director of the
 22 department, the assistant director in charge of the bureau of
 23 correctional facilities, except as otherwise provided in this
 24 section, may cause the transfer or re-transfer of a prisoner from a
 25 correctional facility to which committed to any other correctional
 26 facility, or temporarily to a state institution for medical or
 27 surgical treatment. In effecting a transfer, the assistant director

1 of the bureau of correctional facilities may utilize the services
2 of an executive or employee within the department and of a law
3 enforcement officer of the state.

4 (2) A prisoner who is subject to disciplinary time and is
5 committed to the jurisdiction of the department shall be confined
6 in a secure correctional facility for the duration of his or her
7 minimum sentence, except for periods when the prisoner is away from
8 the secure correctional facility while being supervised by an
9 employee of the department or by an employee of a private ~~vendor~~
10 **CONTRACTOR** that operates a ~~youth correctional facility under~~
11 ~~section 20g~~ **FACILITY OR INSTITUTION THAT HOUSES PRISONERS UNDER THE**
12 **JURISDICTION OF THE DEPARTMENT** for 1 of the following purposes:

13 (a) Visiting a critically ill relative.

14 (b) Attending the funeral of a relative.

15 (c) Obtaining medical services not otherwise available at the
16 secure correctional facility.

17 (d) Participating in a work detail.

18 (3) As used in this section, "offender" means a citizen of the
19 United States or a foreign country who has been convicted of a
20 crime and been given a sentence in a country other than the country
21 of which he or she is a citizen. If a treaty is in effect between
22 the United States and a foreign country, which provides for the
23 transfer of offenders from the jurisdiction of 1 of the countries
24 to the jurisdiction of the country of which the offender is a
25 citizen, and if the offender requests the transfer, the governor of
26 this state or a person designated by the governor may give the
27 approval of this state to a transfer of an offender, if the

1 conditions of the treaty are satisfied.

2 (4) Not less than 45 days before approval of a transfer
3 pursuant to subsection (3) from this state to another country, the
4 governor, or the governor's designee, shall notify the sentencing
5 judge and the prosecuting attorney of the county having original
6 jurisdiction, or their successors in office, of the request for
7 transfer. The notification shall indicate any name changes of the
8 offender subsequent to sentencing. Within 20 days after receiving
9 such notification, the judge or prosecutor may send to the
10 governor, or the governor's designee, information about the
11 criminal action against the offender or objections to the transfer.
12 Objections to the transfer shall not preclude approval of the
13 transfer.

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

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

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

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

24 Sec. 65a. (1) Under prescribed conditions, the director may
25 extend the limits of confinement of a prisoner when there is
26 reasonable assurance, after consideration of all facts and
27 circumstances, that the prisoner will not become a menace to

1 society or to the public safety, by authorizing the prisoner to do
2 any of the following:

3 (a) Visit a specifically designated place or places. An
4 extension of limits may be granted only to a prisoner housed in a
5 state correctional facility to permit a visit to a critically ill
6 relative, attendance at the funeral of a relative, or contacting
7 prospective employers. The maximum amount of time a prisoner is
8 eligible for an extension of the limits of confinement under this
9 subdivision shall not exceed a cumulative total period of 30 days.

10 (b) Obtain medical services not otherwise available to a
11 prisoner housed in a state correctional facility.

12 (c) Work at paid employment, participate in a training or
13 educational program, or participate in a community residential drug
14 treatment program while continuing as a prisoner housed on a
15 voluntary basis at a community corrections center or in a community
16 residential home.

17 (2) The director shall promulgate rules to implement this
18 section.

19 (3) The willful failure of a prisoner to remain within the
20 extended limits of his or her confinement or to return within the
21 time prescribed to an institution or facility designated by the
22 director shall be considered an escape from custody as provided in
23 section 193 of the Michigan penal code, 1931 PA 328, MCL 750.193.

24 (4) Subject to subsection (8), a prisoner, other than a
25 prisoner subject to disciplinary time, who is convicted of a crime
26 of violence or any assaultive crime is not eligible for the
27 extensions of the limits of confinement provided in subsection (1)

1 until the minimum sentence imposed for the crime has less than 180
2 days remaining.

3 (5) Subject to subsection (8), a prisoner subject to
4 disciplinary time is not eligible for the extensions of the limits
5 of confinement provided in subsection (1) until he or she has
6 served the minimum sentence imposed for the crime.

7 (6) However, notwithstanding subsections (4) or (5), if the
8 reason for the extension is to visit a critically ill relative,
9 attend the funeral of a relative, or obtain medical services not
10 otherwise available, the director may allow the extension under
11 escort as provided in subsection (1).

12 (7) A prisoner serving a sentence for murder in the first
13 degree is not eligible for the extensions of confinement under this
14 section until a parole release date is established by the parole
15 board and in no case before serving 15 calendar years with a good
16 institutional adjustment.

17 (8) A prisoner who is convicted of a crime of violence or any
18 assaultive crime, and whose minimum sentence imposed for the crime
19 is 10 years or more, shall not be placed in a community residential
20 home during any portion of his or her sentence.

21 (9) As used in this section:

22 (a) "Community corrections center" means a facility either
23 contracted for or operated by the department in which a security
24 staff is on duty 7 days per week, 24 hours per day.

25 (b) "Community residential home" means a location where
26 electronic monitoring of prisoner presence is provided by the
27 department 7 days per week, 24 hours per day, except that the

1 department may waive the requirement that electronic monitoring be
2 provided as to any prisoner who is within 3 months of his or her
3 parole date.

4 (c) "State correctional facility" means a facility ~~owned or~~
5 ~~leased by~~ **OR INSTITUTION THAT HOUSES A PRISONER POPULATION UNDER**
6 **THE JURISDICTION OF** the department. State correctional facility
7 does not include a community corrections center or community
8 residential home.

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

17 (2) As used in this section:

18 (a) "Pat down search" means a search of a person in which the
19 person conducting the search touches the body or clothing, or both,
20 of the person being searched to detect the presence of concealed
21 objects.

22 (b) "State correctional facility" ~~includes a youth~~
23 ~~correctional facility operated under section 20g by the department~~
24 ~~or a private vendor.~~ **MEANS A FACILITY OR INSTITUTION THAT HOUSES**
25 **PRISONERS UNDER THE JURISDICTION OF THE DEPARTMENT.**

26 Sec. 70. (1) A correctional facility may monitor telephone
27 communications over telephones available for use by prisoners in

1 the correctional facility if all of the following conditions are
2 met:

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

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

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

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

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

25 (2) A correctional facility shall disclose information
26 obtained ~~pursuant to~~-**UNDER** this section regarding a crime or
27 attempted crime to any law enforcement agency having jurisdiction

1 over that crime or attempted crime.

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

5 (4) As used in this section:

6 (a) "Correctional facility" includes a ~~youth~~-correctional
7 facility operated under section 20g **OR 20J** by the department or a
8 private ~~vendor~~-**CONTRACTOR**.

9 (b) "Monitor" means to listen to or record, or both.