

HOUSE BILL No. 5177

November 29, 2011, Introduced by Rep. Haveman and referred to the Committee on Appropriations.

A bill to amend 1953 PA 232, entitled "Corrections code of 1953," by amending sections 29, 63, 63a, 69a, and 70 (MCL 791.229, 791.263, 791.263a, 791.269a, and 791.270), section 29 as amended by 2010 PA 248 and sections 63, 63a, 69a, and 70 as amended by 1998 PA 512.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 29. Except as otherwise provided by law, all records and
2 reports of investigations made by a probation officer, and all case
3 histories of probationers shall be privileged or confidential
4 communications not open to public inspection. Judges and probation
5 officers shall have access to the records, reports, and case
6 histories. The probation officer, the assistant director of

1 probation, or the assistant director's representative shall permit
2 the attorney general, the auditor general, and law enforcement
3 agencies to have access to the records, reports, and case histories
4 and shall permit designated representatives of a private vendor
5 that operates a youth correctional facility under section 20g to
6 have access to the records, reports, and case histories pertaining
7 to prisoners assigned to ~~the youth correctional~~ **THAT** facility. The
8 relation of confidence between the probation officer and
9 probationer or defendant under investigation shall remain
10 inviolate.

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

19 (2) As used in this section, "correctional facility" does not
20 include a ~~youth correctional facility authorized under~~ **DESCRIBED IN**
21 section 20g if that facility is operated by a private vendor.

22 Sec. 63a. (1) A person employed by the department of
23 corrections in a correctional facility who is injured as a result
24 of an assault by a prisoner housed in the correctional facility or
25 injured during a riot shall receive his or her full wages by the
26 department of corrections until worker's compensation benefits
27 begin and then shall receive in addition to worker's compensation

1 benefits a supplement from the department which together with the
2 worker's compensation benefits shall equal but not exceed the
3 weekly net wage of the employee at the time of the injury. This
4 supplement shall only apply while the person is on the department's
5 payroll and is receiving worker's compensation benefits. Fringe
6 benefits normally received by an employee shall be in effect during
7 the time the employee receives the supplement provided by this
8 section from the department.

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

18 (3) For purposes of this section, ÷

19 ~~(a) "Correctional facility"~~ **"CORRECTIONAL FACILITY"** means a
20 facility that houses prisoners committed to the jurisdiction of the
21 department, including a community corrections center.

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

24 Sec. 69a. (1) A visitor to a state correctional facility shall
25 not be subjected to a pat down search unless every person
26 performing or assisting in performing the pat down search is of the
27 same sex as the person being searched. If the necessary personnel

1 are not readily available, a visitor at his or her option may ~~sign~~
2 **WAIVE THE PROVISIONS OF THIS SUBSECTION BY SIGNING** a waiver
3 provided by the department of corrections. ~~, waiving the provisions~~
4 ~~of this subsection.~~

5 (2) As used in this section:

6 (a) "Pat down search" means a search of a person in which the
7 person conducting the search touches the body or clothing, or both,
8 of the person being searched to detect the presence of concealed
9 objects.

10 (b) "State correctional facility" includes a ~~youth~~
11 correctional facility operated under section 20g by the department
12 or a private vendor.

13 Sec. 70. (1) A correctional facility may monitor telephone
14 communications over telephones available for use by prisoners in
15 the correctional facility if all of the following conditions are
16 met:

17 (a) The director promulgates rules under which the monitoring
18 is to be conducted, and the monitoring is conducted in accordance
19 with those rules. The rules shall include provisions for minimizing
20 the intrusiveness of the monitoring and shall prescribe a procedure
21 by which a prisoner may make telephone calls to his or her
22 attorney, and any federal, state, or local public official if
23 requested by that public official, that are not monitored.

24 (b) The monitoring is routinely conducted for the purpose of
25 preserving the security and orderly management of the correctional
26 facility, interdicting drugs and other contraband, and protecting
27 the public, and is performed by employees of the department or, in

1 the case of a ~~youth~~-correctional facility operated by a private
2 vendor under section 20g, is conducted by employees of the private
3 vendor.

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

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

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

12 (2) A correctional facility shall disclose information
13 obtained ~~pursuant to~~ **UNDER** this section regarding a crime or
14 attempted crime to any law enforcement agency having jurisdiction
15 over that crime or attempted crime.

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

19 (4) As used in this section:

20 (a) "Correctional facility" includes a ~~youth~~-correctional
21 facility operated under section 20g by the department or a private
22 vendor.

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

24 Enacting section 1. This amendatory act does not take effect
25 unless Senate Bill No. ____ or House Bill No. 5174 (request no.
26 03986'11) of the 96th Legislature is enacted into law.