

# SENATE BILL No. 878

December 13, 2011, Introduced by Senator PROOS 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

House Bill No. 5174

26 of the 96th Legislature is enacted into law.