

SUBSTITUTE FOR
HOUSE BILL NO. 5243

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending section 35 (MCL 791.235), as amended by 2012 PA 24.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 35. (1) The release of a prisoner on parole ~~shall~~**MUST** be
2 granted solely upon the initiative of the parole board. The parole
3 board may grant a parole without interviewing the prisoner.
4 However, ~~beginning January 26, 1996,~~ the parole board may grant a
5 parole without interviewing the prisoner only if, after evaluating
6 the prisoner according to the parole guidelines, the parole board
7 determines that the prisoner has a high probability of being
8 paroled and the parole board therefore intends to parole the
9 prisoner. Except as provided in subsection (2), a prisoner ~~shall~~
10 **MUST** not be denied parole without an interview before 1 member of

1 the parole board. The interview ~~shall~~**MUST** be conducted at least 1
2 month before the expiration of the prisoner's minimum sentence less
3 applicable good time and disciplinary credits for a prisoner
4 eligible for good time and disciplinary credits, or at least 1
5 month before the expiration of the prisoner's minimum sentence for
6 a prisoner subject to disciplinary time. The parole board shall
7 consider any statement made to the parole board by a crime victim
8 under the William Van Regenmorter crime victim's rights act, 1985
9 PA 87, MCL 780.751 to 780.834, or under any other provision of law.
10 The parole board shall not consider any of the following factors in
11 making a parole determination:

12 (a) A juvenile record that a court has ordered the department
13 to expunge.

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

20 (2) ~~Beginning January 26, 1996, if,~~**IF**, after evaluating a
21 prisoner according to the parole guidelines, the parole board
22 determines that the prisoner has a low probability of being paroled
23 and the parole board therefore does not intend to parole the
24 prisoner, the parole board is not required to interview the
25 prisoner before denying parole to the prisoner.

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

1 (a) A prisoner's marital history.

2 (b) Prior arrests not resulting in conviction or adjudication
3 of delinquency.

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

14 (5) Except for good cause, the parole board member conducting
15 the interview shall not have cast a vote for or against the
16 prisoner's release before conducting the current interview. Before
17 the interview, the parole board member who is to conduct the
18 interview shall review pertinent information relative to the notice
19 of intent to conduct an interview.

20 (6) A prisoner may waive the right to an interview by 1 member
21 of the parole board. The waiver of the right to be interviewed
22 ~~shall~~**MUST** be given not more than 30 days after the notice of
23 intent to conduct an interview is issued and ~~shall~~**MUST** be made in
24 writing. During the interview held pursuant to a notice of intent
25 to conduct an interview, the prisoner may be represented by an
26 individual of his or her choice. The representative ~~shall~~**MUST** not
27 be another prisoner or an attorney. A prisoner is not entitled to

1 appointed counsel at public expense. The prisoner or representative
2 may present relevant evidence in support of release.

3 (7) At least 90 days before the expiration of the prisoner's
4 minimum sentence less applicable good time and disciplinary credits
5 for a prisoner eligible for good time or disciplinary credits, or
6 at least 90 days before the expiration of the prisoner's minimum
7 sentence for a prisoner subject to disciplinary time, or the
8 expiration of a 12-month continuance for any prisoner, a parole
9 eligibility report ~~shall~~**MUST** be prepared by appropriate
10 institutional staff. The parole eligibility report ~~shall be~~
11 ~~considered~~**IS** pertinent information for purposes of subsection (5).
12 The report ~~shall~~**MUST** include all of the following:

13 (a) A statement of all major misconduct charges of which the
14 prisoner was found guilty and the punishment served for the
15 misconduct.

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

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

19 (d) Whether the prisoner fully cooperated with the state by
20 providing complete financial information as required under section
21 3a of the state correctional facility reimbursement act, 1935 PA
22 253, MCL 800.403a.

23 (e) Whether the prisoner refused to attempt to obtain
24 identification documents under section 34c, if applicable.

25 (f) For a prisoner subject to disciplinary time, a statement
26 of all disciplinary time submitted for the parole board's
27 consideration under section 34 of 1893 PA 118, MCL 800.34.

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

3 (9) Psychological evaluations performed at the request of the
4 parole board to assist it in reaching a decision on the release of
5 a prisoner may be performed by the same ~~person~~ **CLINICIAN** who
6 provided the prisoner with therapeutic treatment, unless a
7 different ~~person~~ **CLINICIAN** is requested by the prisoner or parole
8 board. **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, THE**
9 **CLINICIAN MUST COMPLETE THE EXAMINATION FOR THE PSYCHOLOGICAL**
10 **EVALUATION WITHIN 45 DAYS AFTER THE PSYCHOLOGICAL EVALUATION IS**
11 **REQUESTED BY THE PAROLE BOARD. THE CLINICIAN MAY APPLY WITH THE**
12 **PAROLE BOARD FOR AN EXTENSION OF TIME TO COMPLETE THE EXAMINATION**
13 **FOR GOOD CAUSE THAT THE ADDITIONAL TIME IS NECESSARY FOR THE**
14 **CLINICIAN TO OBSERVE AND EVALUATE THE PRISONER. THE PAROLE BOARD**
15 **SHALL GRANT AN EXTENSION OF NOT MORE THAN 15 DAYS FOR COMPLETION OF**
16 **THE EXAMINATION. IF THE EXAMINATION FOR THE PSYCHOLOGICAL**
17 **EVALUATION IS NOT COMPLETED IN THE TIME LIMITATIONS UNDER THIS**
18 **SUBSECTION, THE PAROLE BOARD MAY TAKE IMMEDIATE STEPS TO OBTAIN THE**
19 **EXAMINATION, INCLUDING, BUT NOT LIMITED TO, REQUESTING ANOTHER**
20 **CLINICIAN TO CONDUCT THE EXAMINATION. EXCEPT AS OTHERWISE PROVIDED**
21 **IN THIS SUBSECTION, THE CLINICIAN WHO CONDUCTED THE EXAMINATION**
22 **UNDER THIS SUBSECTION SHALL SUBMIT A REPORT OF THE PSYCHOLOGICAL**
23 **EVALUATION TO THE PAROLE BOARD WITHIN 60 DAYS AFTER THE**
24 **PSYCHOLOGICAL EVALUATION IS REQUESTED BY THE PAROLE BOARD. THE**
25 **REPORT MUST CONTAIN THE CLINICAL FINDINGS AND THE FACTS, IN**
26 **REASONABLE DETAIL, UPON WHICH THE CLINICAL FINDINGS ARE BASED. THE**
27 **CLINICIAN MAY APPLY WITH THE PAROLE BOARD FOR AN EXTENSION OF TIME**

1 TO SUBMIT THE REPORT FOR GOOD CAUSE THAT THE ADDITIONAL TIME IS
2 NECESSARY TO COMPLETE THE REPORT. THE PAROLE BOARD SHALL GRANT AN
3 EXTENSION OF NOT MORE THAN 15 DAYS FOR COMPLETION OF THE REPORT.

4 (10) The parole board may grant a medical parole for a
5 prisoner determined to be physically or mentally incapacitated. A
6 decision to grant a medical parole ~~shall~~**MUST** be initiated upon the
7 recommendation of the bureau of health care services and ~~shall~~**MUST**
8 be reached only after a review of the medical, institutional, and
9 criminal records of the prisoner.

10 (11) The department shall submit a petition to the appropriate
11 court under section 434 of the mental health code, 1974 PA 258, MCL
12 330.1434, for any prisoner being paroled or being released after
13 serving his or her maximum sentence whom the department considers
14 to be a person requiring treatment. The parole board shall require
15 mental health treatment as a special condition of parole for any
16 parolee whom the department has determined to be a person requiring
17 treatment whether or not the petition filed for that prisoner is
18 granted by the court. As used in this subsection, "person requiring
19 treatment" means that term as defined in section 401 of the mental
20 health code, 1974 PA 258, MCL 330.1401.

21 (12) When the parole board makes a final determination not to
22 release a prisoner, the prisoner ~~shall~~**MUST** be provided with a
23 written explanation of the reason for denial and, if appropriate,
24 specific recommendations for corrective action the prisoner may
25 take to facilitate release.

26 (13) This section does not apply to the placement on parole of
27 a person in conjunction with special alternative incarceration

1 under section 34a(7).

2 Enacting section 1. This amendatory act takes effect 90 days
3 after the date it is enacted into law.