

# SENATE BILL No. 1142

November 8, 2018, Introduced by Senator BIEDA and referred to the Committee on Judiciary.

A bill to amend 1953 PA 232, entitled "Corrections code of 1953," by amending sections 20g, 33, 34, 34a, 35, 36, 51, 65, and 65a (MCL 791.220g, 791.233, 791.234, 791.234a, 791.235, 791.236, 791.251, 791.265, and 791.265a), section 20g as amended by 2000 PA 211, section 33 as amended by 2017 PA 14, section 34 as amended by 2017 PA 265, section 34a as amended by 2012 PA 259, section 35 as amended by 2018 PA 339, section 36 as amended by 2012 PA 623, section 51 as amended by 1998 PA 269, and sections 65 and 65a as amended by 2012 PA 599; and to repeal acts and parts of acts.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 20g. (1) The department may establish a youth  
2           correctional facility which ~~shall~~**MUST** house only prisoners  
3           committed to the jurisdiction of the department who are 19 years of

1 age or less. If the department establishes or contracts with a  
2 private vendor for the operation of a youth correctional facility,  
3 following intake processing in a department operated facility, the  
4 department shall house all male prisoners who are 16 years of age  
5 or less at the youth correctional facility unless the department  
6 determines that the prisoner should be housed at a different  
7 facility for reasons of security, safety, or because of the  
8 prisoner's specialized physical or mental health care needs.

9 (2) Except as provided in subsection (3), a prisoner who is 16  
10 years of age or less and housed at a youth correctional facility  
11 ~~shall~~**MUST** only be placed in a general population housing unit with  
12 prisoners who are 16 years of age or less.

13 (3) A prisoner who becomes 17 years of age while being housed  
14 at a youth correctional facility and who has a satisfactory prison  
15 record may remain in a general population housing unit for no more  
16 than 1 year with prisoners who are 16 years of age or less.

17 (4) Except as provided in subsection (3), a prisoner who is 16  
18 years of age or less and housed at a youth correctional facility  
19 ~~shall~~**MUST** not be allowed to be in the proximity of a prisoner who  
20 is 17 years of age or more without the presence and direct  
21 supervision of custody personnel in the immediate vicinity.

22 (5) The department may establish and operate the youth  
23 correctional facility or may contract on behalf of the state with a  
24 private vendor for the construction or operation, or both, of the  
25 youth correctional facility. If the department contracts with a  
26 private vendor to construct, rehabilitate, develop, renovate, or  
27 operate any existing or anticipated facility ~~pursuant to~~**UNDER** this

1 section, the department shall require a written certification from  
2 the private vendor regarding all of the following:

3 (a) If practicable to efficiently and effectively complete the  
4 project, the private vendor shall follow a competitive bid process  
5 for the construction, rehabilitation, development, or renovation of  
6 the facility, and this process ~~shall~~**MUST** be open to all Michigan  
7 residents and firms. The private vendor shall not discriminate  
8 against any contractor on the basis of its affiliation or  
9 nonaffiliation with any collective bargaining organization.

10 (b) The private vendor shall make a good faith effort to  
11 employ, if qualified, Michigan residents at the facility.

12 (c) The private vendor shall make a good faith effort to  
13 employ or contract with Michigan residents and firms to construct,  
14 rehabilitate, develop, or renovate the facility.

15 (6) If the department contracts with a private vendor for the  
16 operation of the youth correctional facility, the department shall  
17 require by contract that the personnel employed by the private  
18 vendor in the operation of the facility be certified as  
19 correctional officers to the same extent as would be required if  
20 those personnel were employed in a correctional facility operated  
21 by the department. The department also shall require by contract  
22 that the private vendor meet requirements specified by the  
23 department regarding security, protection of the public,  
24 inspections by the department, programming, liability and  
25 insurance, conditions of confinement, educational services required  
26 under subsection (11), and any other issues the department  
27 considers necessary for the operation of the youth correctional

1 facility. The department shall also require that the contract  
2 include provisions to protect the public's interest if the private  
3 vendor defaults on the contract. Before finalizing a contract with  
4 a private vendor for the construction or operation of the youth  
5 correctional facility, the department shall submit the proposed  
6 contract to the standing committees of the senate and the house of  
7 representatives having jurisdiction of corrections issues, the  
8 corrections subcommittees of the standing committees on  
9 appropriations of the senate and the house of representatives, and,  
10 with regard to proposed construction contracts, the joint committee  
11 on capital outlay. A contract between the department and a private  
12 vendor for the construction or operation of the youth correctional  
13 facility ~~shall be~~ **IS** contingent upon appropriation of the required  
14 funding. If the department contracts with a private vendor under  
15 this section, the selection of that private vendor ~~shall~~ **MUST** be by  
16 open, competitive bid.

17 (7) The department shall not site a youth correctional  
18 facility under this section in a city, village, or township unless  
19 the local legislative body of that city, village, or township  
20 adopts a resolution approving the location.

21 (8) A private vendor operating a youth correctional facility  
22 under a contract under this section shall not do any of the  
23 following, unless directed to do so by the department policy:

24 (a) Calculate inmate release and parole eligibility dates.

25 (b) Award good time. ~~or disciplinary credits, or impose~~  
26 ~~disciplinary time.~~

27 (c) Approve inmates for extensions of limits of confinement.

1           (9) The youth correctional facility ~~shall~~**MUST** be open to  
2 visits during all business hours, and during nonbusiness hours  
3 unless an emergency prevents it, by any elected state senator or  
4 state representative.

5           (10) Once each year, the department shall report on the  
6 operation of the facility. Copies of the report shall be submitted  
7 to the chairpersons of the house and senate committees responsible  
8 for legislation on corrections or judicial issues, and to the clerk  
9 of the house of representatives and the secretary of the senate.

10           (11) Regardless of whether the department itself operates the  
11 youth correctional facility or contracts with a private vendor to  
12 operate the youth correctional facility, all of the following  
13 educational services ~~shall~~**MUST** be provided for juvenile prisoners  
14 housed at the facility who have not earned a high school diploma or  
15 received a ~~general education certificate (GED)~~**HIGH SCHOOL**  
16 **EQUIVALENCY CERTIFICATE:**

17           (a) The department or private vendor shall require that a  
18 prisoner whose academic achievement level is not sufficient to  
19 allow the prisoner to participate effectively in a program leading  
20 to the attainment of a ~~GED~~**HIGH SCHOOL EQUIVALENCY** certificate  
21 participate in classes that will prepare him or her to participate  
22 effectively in the ~~GED~~**HIGH SCHOOL EQUIVALENCY CERTIFICATE** program,  
23 and shall provide those classes in the facility.

24           (b) The department or private vendor shall require that a  
25 prisoner who successfully completes classes described in  
26 subdivision (a), or whose academic achievement level is otherwise  
27 sufficient, participate in classes leading to the attainment of a

1 ~~GED-HIGH SCHOOL EQUIVALENCY~~ certificate, and shall provide those  
2 classes.

3 (12) Neither the department nor the private vendor shall seek  
4 to have the youth correctional facility authorized as a public  
5 school academy under the revised school code, 1976 PA 451, MCL  
6 380.1 to 380.1852.

7 (13) A private vendor that operates the youth correctional  
8 facility under a contract with the department shall provide written  
9 notice of its intention to discontinue its operation of the  
10 facility. ~~This subsection does not authorize or limit liability for~~  
11 ~~a breach or default of contract.~~ If the reason for the  
12 discontinuance is that the private vendor intends not to renew the  
13 contract, the notice ~~shall~~ **MUST** be delivered to the director of the  
14 department at least 1 year before the contract expiration date. If  
15 the discontinuance is for any other reason, the notice ~~shall~~ **MUST**  
16 be delivered to the director of the department at least 6 months  
17 before the date on which the private vendor will discontinue its  
18 operation of the facility. This subsection does not authorize or  
19 limit liability for a breach or default of contract.

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

22 (a) A prisoner must not be given liberty on parole until the  
23 board has reasonable assurance, after consideration of all of the  
24 facts and circumstances, including the prisoner's mental and social  
25 attitude, that the prisoner will not become a menace to society or  
26 to the public safety.

27 (b) Except as provided in section 34a, a parole must not be

1 granted to a prisoner ~~other than a prisoner subject to disciplinary~~  
2 ~~time~~ until the prisoner has served the minimum term imposed by the  
3 court less allowances for good time or special good time to which  
4 the prisoner may be entitled by statute, except that a prisoner  
5 ~~other than a prisoner subject to disciplinary time~~ is eligible for  
6 parole before the expiration of his or her minimum term of  
7 imprisonment whenever the sentencing judge, or the judge's  
8 successor in office, gives written approval of the parole of the  
9 prisoner before the expiration of the minimum term of imprisonment.

10 ~~—— (c) Except as provided in section 34a, and notwithstanding the~~  
11 ~~provisions of subdivision (b), a parole must not be granted to a~~  
12 ~~prisoner other than a prisoner subject to disciplinary time~~  
13 ~~sentenced for the commission of a crime described in section 33b(a)~~  
14 ~~to (cc) until the prisoner has served the minimum term imposed by~~  
15 ~~the court less an allowance for disciplinary credits as provided in~~  
16 ~~section 33(5) of 1893 PA 118, MCL 800.33. A prisoner described in~~  
17 ~~this subdivision is not eligible for special parole.~~

18 ~~—— (d) Except as provided in section 34a, a parole must not be~~  
19 ~~granted to a prisoner subject to disciplinary time until the~~  
20 ~~prisoner has served the minimum term imposed by the court.~~

21 (C) ~~(e)~~—A prisoner must not be released on parole until the  
22 parole board has satisfactory evidence that arrangements have been  
23 made for such honorable and useful employment as the prisoner is  
24 capable of performing, for the prisoner's education, or for the  
25 prisoner's care if the prisoner is mentally or physically ill or  
26 incapacitated.

27 (D) ~~(f)~~—A prisoner whose minimum term of imprisonment is 2

1 years or more must not be released on parole unless he or she has  
2 either earned a high school diploma or a high school equivalency  
3 certificate. The director of the department may waive the  
4 restriction imposed by this subdivision as to any prisoner who is  
5 over the age of 65 or who was gainfully employed immediately before  
6 committing the crime for which he or she was incarcerated. The  
7 department may also waive the restriction imposed by this  
8 subdivision as to any prisoner who has a learning disability, who  
9 does not have the necessary proficiency in English, or who for some  
10 other reason that is not the fault of the prisoner is unable to  
11 successfully complete the requirements for a high school diploma or  
12 a high school equivalency certificate. If the prisoner does not  
13 have the necessary proficiency in English, the department shall  
14 provide English language training for that prisoner necessary for  
15 the prisoner to begin working toward the completion of the  
16 requirements for a high school equivalency certificate. This  
17 subdivision applies to prisoners sentenced for crimes committed  
18 after December 15, 1998. In providing an educational program  
19 leading to a high school diploma or a high school equivalency  
20 certificate, the department shall give priority to prisoners  
21 sentenced for crimes committed on or before December 15, 1998.

22 (2) Paroles-in-custody to answer warrants filed by local or  
23 out-of-state agencies, or immigration officials, are permissible if  
24 an accredited agent of the agency filing the warrant calls for the  
25 prisoner to be paroled in custody.

26 (3) The parole board may promulgate rules under the  
27 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to

1 24.328, that are not inconsistent with this act with respect to  
2 conditions imposed upon prisoners paroled under this act.

3 Sec. 34. (1) Except as provided in section 34a, a prisoner  
4 sentenced to an indeterminate sentence and confined in a state  
5 correctional facility with a minimum in terms of years ~~other than a~~  
6 ~~prisoner subject to disciplinary time~~ is subject to the  
7 jurisdiction of the parole board when the prisoner has served a  
8 period of time equal to the minimum sentence imposed by the court  
9 for the crime of which he or she was convicted, less good time and  
10 disciplinary credits, if applicable.

11 ~~—— (2) Except as provided in section 34a, a prisoner subject to~~  
12 ~~disciplinary time sentenced to an indeterminate sentence and~~  
13 ~~confined in a state correctional facility with a minimum in terms~~  
14 ~~of years is subject to the jurisdiction of the parole board when~~  
15 ~~the prisoner has served a period of time equal to the minimum~~  
16 ~~sentence imposed by the court for the crime of which he or she was~~  
17 ~~convicted.~~

18 (2) ~~(3)~~—If a prisoner ~~other than a prisoner subject to~~  
19 ~~disciplinary time~~ is sentenced for consecutive terms, whether  
20 received at the same time or at any time during the life of the  
21 original sentence, the parole board has jurisdiction over the  
22 prisoner for purposes of parole when the prisoner has served the  
23 total time of the added minimum terms, less the good time ~~and~~  
24 ~~disciplinary credits~~ allowed by statute. The maximum terms of the  
25 sentences must be added to compute the new maximum term under this  
26 subsection, and discharge must be issued only after the total of  
27 the maximum sentences has been served less good time ~~and~~

1 ~~disciplinary credits, unless the prisoner is paroled and discharged~~  
2 ~~upon satisfactory completion of the parole.~~

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

13 (3) ~~(5) If a prisoner other than a prisoner subject to~~  
14 ~~disciplinary time has 1 or more consecutive terms remaining to~~  
15 ~~serve in addition to the term he or she is serving, the parole~~  
16 ~~board may terminate the sentence the prisoner is presently serving~~  
17 ~~at any time after the minimum term of the sentence has been served.~~

18 (4) ~~(6) A prisoner sentenced to imprisonment for life for any~~  
19 ~~of the following is not eligible for parole and is instead subject~~  
20 ~~to the provisions of section 44:~~

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

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

25 (c) A violation of chapter XXXIII of the Michigan penal code,  
26 1931 PA 328, MCL 750.200 to 750.212a.

27 (d) A violation of section 17764(7) of the public health code,

1 1978 PA 368, MCL 333.17764.

2 (e) First degree criminal sexual conduct in violation of  
3 section 520b(2)(c) of the Michigan penal code, 1931 PA 328, MCL  
4 750.520b.

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

7 (5) ~~(7)~~—A prisoner sentenced to imprisonment for life, other  
8 than a prisoner described in subsection ~~(6)~~, ~~(4)~~, is subject to the  
9 jurisdiction of the parole board and may be placed on parole  
10 according to the conditions prescribed in subsection ~~(8)~~ ~~(6)~~ if he  
11 or she meets any of the following criteria:

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

16 (b) Except as provided in subsection ~~(12)~~, ~~(10)~~, the prisoner  
17 has served 20 calendar years of a sentence for violating, or  
18 attempting or conspiring to violate, section 7401(2)(a)(i) of the  
19 public health code, 1978 PA 368, MCL 333.7401, and has another  
20 conviction for a serious crime.

21 (c) Except as provided in subsection ~~(12)~~, ~~(10)~~, the prisoner  
22 has served 17-1/2 calendar years of the sentence for violating, or  
23 attempting or conspiring to violate, section 7401(2)(a)(i) of the  
24 public health code, 1978 PA 368, MCL 333.7401, and does not have  
25 another conviction for a serious crime.

26 (6) ~~(8)~~—A parole granted to a prisoner under subsection ~~(7)~~  
27 (5) is subject to the following conditions:

1 (a) At the conclusion of 10 calendar years of the prisoner's  
2 sentence and thereafter as determined by the parole board until the  
3 prisoner is paroled, discharged, or deceased, and in accordance  
4 with the procedures described in subsection ~~(9)~~, ~~(7)~~, 1 member of  
5 the parole board shall interview the prisoner. The interview  
6 schedule prescribed in this subdivision applies to all prisoners to  
7 whom subsection ~~(7)~~ ~~(5)~~ applies, regardless of the date on which  
8 they were sentenced.

9 (b) In addition to the interview schedule prescribed in  
10 subdivision (a), the parole board shall review the prisoner's file  
11 at the conclusion of 15 calendar years of the prisoner's sentence  
12 and every 5 years thereafter until the prisoner is paroled,  
13 discharged, or deceased. A prisoner whose file is to be reviewed  
14 under this subdivision ~~shall~~ **MUST** be notified of the upcoming file  
15 review at least 30 days before the file review takes place and must  
16 be allowed to submit written statements or documentary evidence for  
17 the parole board's consideration in conducting the file review.

18 (c) A decision to grant or deny parole to the prisoner must  
19 not be made until after a public hearing held in the manner  
20 prescribed for pardons and commutations in sections 44 and 45.  
21 Notice of the public hearing must be given to the sentencing judge,  
22 or the judge's successor in office. Parole must not be granted if  
23 the sentencing judge files written objections to the granting of  
24 the parole within 30 days of receipt of the notice of hearing, but  
25 the sentencing judge's written objections bar the granting of  
26 parole only if the sentencing judge is still in office in the court  
27 before which the prisoner was convicted and sentenced. A sentencing

1 judge's successor in office may file written objections to the  
2 granting of parole, but a successor judge's objections must not bar  
3 the granting of parole under subsection ~~(7)~~—(5). If written  
4 objections are filed by either the sentencing judge or the judge's  
5 successor in office, they must be made part of the prisoner's file.

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

16 (7) ~~(9)~~—An interview conducted under subsection ~~(8)~~—(a)—(6) (A)  
17 is subject to both of the following requirements:

18 (a) The prisoner must be given written notice, not less than  
19 30 days before the interview date, stating that the interview will  
20 be conducted.

21 (b) The prisoner may be represented at the interview by an  
22 individual of his or her choice. The representative must not be  
23 another prisoner. A prisoner is not entitled to appointed counsel  
24 at public expense. The prisoner or representative may present  
25 relevant evidence in favor of holding a public hearing as allowed  
26 in subsection ~~(8)~~—(c)—(6) (C).

27 (8) ~~(10)~~—In determining whether a prisoner convicted of

1 violating, or attempting or conspiring to violate, section  
2 7401(2)(a)(i) of the public health code, 1978 PA 368, MCL 333.7401,  
3 and sentenced to imprisonment for life before October 1, 1998 is to  
4 be released on parole, the parole board shall consider all of the  
5 following:

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

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

11 (c) Any of the following:

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

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

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

27 (iv) Whether the violation involved the delivery of a

1 controlled substance to an individual less than 17 years of age or  
2 possession with intent to deliver a controlled substance to an  
3 individual less than 17 years of age.

4 (9) ~~(11)~~ Except as provided in section 34a, a prisoner's  
5 release on parole is discretionary with the parole board. The  
6 action of the parole board in granting a parole is appealable by  
7 the prosecutor of the county from which the prisoner was committed  
8 or the victim of the crime for which the prisoner was convicted.  
9 ~~The AN appeal shall be~~ **FILED UNDER THIS SUBSECTION IS** to the  
10 circuit court in the county from which the prisoner was committed,  
11 by leave of the court.

12 (10) ~~(12)~~ If the sentencing judge, or his or her successor in  
13 office, determines on the record that a prisoner described in  
14 subsection ~~(7) (b) or (c)~~ **(5) (B) OR (C)** sentenced to imprisonment  
15 for life for violating, or attempting or conspiring to violate,  
16 section 7401(2)(a)(i) of the public health code, 1978 PA 368, MCL  
17 333.7401, has cooperated with law enforcement, the prisoner is  
18 subject to the jurisdiction of the parole board and may be released  
19 on parole as provided in subsection ~~(7) (b) or (c)~~ **(5) (B) OR (C)** 2-  
20 1/2 years earlier than the time otherwise indicated in subsection  
21 ~~(7) (b) or (c)~~ **(5) (B) OR (C)**. The prisoner is considered to have  
22 cooperated with law enforcement if the court determines on the  
23 record that the prisoner had no relevant or useful information to  
24 provide. The court shall not make a determination that the prisoner  
25 failed or refused to cooperate with law enforcement on grounds that  
26 the defendant exercised his or her constitutional right to trial by  
27 jury. If the court determines at sentencing that the defendant

1 cooperated with law enforcement, the court shall include its  
2 determination in the judgment of sentence.

3       (11) ~~(13) Notwithstanding subsections (1) and (2),~~ **SUBSECTION**  
4 (1), a prisoner convicted of violating, or attempting or conspiring  
5 to violate, section 7401(2)(a)(i) or 7403(2)(a)(i) of the public  
6 health code, 1978 PA 368, MCL 333.7401 and 333.7403, whose offense  
7 occurred before March 1, 2003, and who was sentenced to a term of  
8 years, is eligible for parole after serving 20 years of the  
9 sentence imposed for the violation if the individual has another  
10 serious crime or 17-1/2 years of the sentence if the individual  
11 does not have another conviction for a serious crime, or after  
12 serving the minimum sentence imposed for that violation, whichever  
13 is less.

14       (12) ~~(14) Notwithstanding subsections (1) and (2),~~ **SUBSECTION**  
15 (1), a prisoner who was convicted of violating, or attempting or  
16 conspiring to violate, section 7401(2)(a)(ii) or 7403(2)(a)(ii) of  
17 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403,  
18 whose offense occurred before March 1, 2003, and who was sentenced  
19 according to those sections as they existed before March 1, 2003,  
20 is eligible for parole after serving the minimum of each sentence  
21 imposed for that violation or 10 years of each sentence imposed for  
22 that violation, whichever is less.

23       (13) ~~(15) Notwithstanding subsections (1) and (2),~~ **SUBSECTION**  
24 (1), a prisoner who was convicted of violating, or attempting or  
25 conspiring to violate, section 7401(2)(a)(iii) or 7403(2)(a)(iii)  
26 of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403,  
27 whose offense occurred before March 1, 2003, and who was sentenced

1 according to those sections as they existed before March 1, 2003,  
2 is eligible for parole after serving the minimum of each sentence  
3 imposed for that violation or 5 years of each sentence imposed for  
4 that violation, whichever is less.

5 (14) ~~(16)~~ Notwithstanding ~~subsections (1) and (2)~~, **SUBSECTION**  
6 (1), a prisoner who was convicted of violating, or attempting or  
7 conspiring to violate, section 7401(2)(a)(iv) or 7403(2)(a)(iv) of  
8 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403,  
9 whose offense occurred before March 1, 2003, who was sentenced  
10 according to those sections of law as they existed before March 1,  
11 2003 to consecutive terms of imprisonment for 2 or more violations  
12 of section 7401(2)(a) or 7403(2)(a) of the public health code, 1978  
13 PA 368, MCL 333.7401 and 333.7403, is eligible for parole after  
14 serving 1/2 of the minimum sentence imposed for each violation of  
15 section 7401(2)(a)(iv) or 7403(2)(a)(iv) of the public health code,  
16 1978 PA 368, MCL 333.7401 and 333.7403. This subsection applies  
17 only to sentences imposed for violations of section 7401(2)(a)(iv)  
18 or 7403(2)(a)(iv) of the public health code, 1978 PA 368, MCL  
19 333.7401 and 333.7403, and does not apply if the sentence was  
20 imposed for a conviction for a new offense committed while the  
21 individual was on probation or parole.

22 (15) ~~(17)~~ Notwithstanding ~~subsections (1) and (2)~~, **SUBSECTION**  
23 (1), a prisoner who was convicted of violating, or attempting or  
24 conspiring to violate, section 7401(2)(a)(ii) or (iii) or  
25 7403(2)(a)(ii) or (iii) of the public health code, 1978 PA 368, MCL  
26 333.7401 and 333.7403, who had a prior conviction for a violation  
27 of section 7401(2)(a)(ii) or (iii) or 7403(2)(a)(ii) or (iii) of

1 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, and  
2 who was sentenced to life without parole under section 7413(1) of  
3 the public health code, 1978 PA 368, MCL 333.7413, according to  
4 that section as it existed before ~~the effective date of the~~  
5 ~~amendatory act that added this subsection~~ **MARCH 28, 2018** is  
6 eligible for parole after serving 5 years of each sentence imposed  
7 for that violation.

8 (16) ~~(18)~~ The parole board shall provide notice to the  
9 prosecuting attorney of the county in which the prisoner was  
10 convicted before granting parole to the prisoner under subsection  
11 ~~(13), (14), (15), (16), or (17)~~. **(11), (12), (13), (14), OR (15)**.

12 (17) ~~(19)~~ As used in this section:

13 (a) "Serious crime" means violating or conspiring to violate  
14 article 7 of the public health code, 1978 PA 368, MCL 333.7101 to  
15 333.7545, that is punishable by imprisonment for more than 4 years,  
16 or an offense against a person in violation of section 83, 84, 86,  
17 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d,  
18 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA 328,  
19 MCL 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.316,  
20 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b,  
21 750.520c, 750.520d, 750.520g, 750.529, 750.529a, and 750.530.

22 (b) "State correctional facility" means a facility that houses  
23 prisoners committed to the jurisdiction of the department.

24 Sec. 34a. (1) A prisoner sentenced to an indeterminate term of  
25 imprisonment under the jurisdiction of the department, regardless  
26 of when he or she was sentenced, shall be considered by the  
27 department for placement in a special alternative incarceration

1 unit established under section 3 of the special alternative  
2 incarceration act, 1988 PA 287, MCL 798.13, if the prisoner meets  
3 the eligibility requirements of subsections (2) and (3). For a  
4 prisoner committed to the jurisdiction of the department on or  
5 after March 19, 1992, the department shall determine before the  
6 prisoner leaves the reception center whether the prisoner is  
7 eligible for placement in a special alternative incarceration unit,  
8 although actual placement may take place at a later date. A  
9 determination of eligibility does not guarantee placement in a  
10 unit.

11 (2) To be eligible for placement in a special alternative  
12 incarceration unit, the prisoner ~~shall~~**MUST** meet all of the  
13 following requirements:

14 (a) The prisoner's minimum sentence does not exceed either of  
15 the following limits, as applicable:

16 (i) Twenty-four months or less for a violation of section 110  
17 or 110a of the Michigan penal code, 1931 PA 328, MCL 750.110 and  
18 750.110a, if the violation involved any occupied dwelling house.

19 (ii) Thirty-six months or less for any other crime.

20 (b) The prisoner has never previously been placed in a special  
21 alternative incarceration unit as either a prisoner or a  
22 probationer, unless he or she was removed from a special  
23 alternative incarceration unit for medical reasons as specified in  
24 subsection (7).

25 (c) The prisoner is physically able to participate in the  
26 program.

27 (d) The prisoner does not appear to have any mental disability

1 that would prevent participation in the program.

2 (e) The prisoner is serving his or her first prison sentence.

3 (f) At the time of sentencing, the judge did not prohibit  
4 participation in the program in the judgment of sentence.

5 (g) The prisoner is otherwise suitable for the program, as  
6 determined by the department.

7 (h) The prisoner is not serving a sentence for any of the  
8 following crimes:

9 (i) A violation of section 49, ~~80, 83~~, 89, 91, 157b, 158, 207,  
10 260, 316, 317, 327, 328, 335a, 338, 338a, 338b, 349, 349a, 350,  
11 422, 436, 511, 520b, 529, 529a, 531, or 544 of the Michigan penal  
12 code, 1931 PA 328, MCL 750.49, ~~750.80, 750.83~~, 750.89, 750.91,  
13 750.157b, 750.158, 750.207, 750.260, 750.316, 750.317, 750.327,  
14 750.328, 750.335a, 750.338, 750.338a, 750.338b, 750.349, 750.349a,  
15 750.350, 750.422, 750.436, 750.511, 750.520b, 750.529, 750.529a,  
16 750.531, and 750.544, **OR FORMER SECTION 80 OF THAT ACT.**

17 (ii) A violation of section 145c, 520c, 520d, or 520g of the  
18 Michigan penal code, 1931 PA 328, MCL 750.145c, 750.520c, 750.520d,  
19 and 750.520g.

20 (iii) A violation of section 72, 73, or 75 of the Michigan  
21 penal code, 1931 PA 328, MCL 750.72, 750.73, and 750.75.

22 (iv) A violation of section 86, 112, 136b, 193, 195, 213, ~~319,~~  
23 321, 329, or 397 of the Michigan penal code, 1931 PA 328, MCL  
24 750.86, 750.112, 750.136b, 750.193, 750.195, 750.213, ~~750.319,~~  
25 750.321, 750.329, and 750.397, **OR FORMER SECTION 319 OF THAT ACT.**

26 (v) A violation of section 2 of 1968 PA 302, MCL 752.542.

27 (vi) An attempt to commit a crime described in subparagraphs

1 (i) to (v).

2 (vii) A violation occurring on or after January 1, 1992, of  
3 section 625(4) or (5) of the Michigan vehicle code, 1949 PA 300,  
4 MCL 257.625.

5 (viii) A crime for which the prisoner was punished under  
6 section 10, 11, or 12 of chapter IX of the code of criminal  
7 procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

8 (3) A prisoner who is serving a sentence for a violation of  
9 section 7401 or 7403 of the public health code, 1978 PA 368, MCL  
10 333.7401 and 333.7403, and who has previously been convicted for a  
11 violation of section 7401 or 7403(2)(a), (b), or (e) of the public  
12 health code, 1978 PA 368, MCL 333.7401 and 333.7403, is not  
13 eligible for placement in a special alternative incarceration unit  
14 until after he or she has served the equivalent of the mandatory  
15 minimum sentence prescribed by statute for that violation.

16 (4) If the sentencing judge prohibited a prisoner's  
17 participation in the special alternative incarceration program in  
18 the judgment of sentence, that prisoner ~~shall~~**MUST** not be placed in  
19 a special alternative incarceration unit. If the sentencing judge  
20 permitted the prisoner's participation in the special alternative  
21 incarceration program in the judgment of sentence, that prisoner  
22 may be placed in a special alternative incarceration unit if the  
23 department determines that the prisoner also meets the requirements  
24 of subsections (2) and (3). If the sentencing judge neither  
25 prohibited nor permitted a prisoner's participation in the special  
26 alternative incarceration program in the judgment of sentence, and  
27 the department determines that the prisoner meets the eligibility

1 requirements of subsections (2) and (3), the department shall  
2 notify the judge or the judge's successor, the prosecuting attorney  
3 for the county in which the prisoner was sentenced, and any victim  
4 of the crime for which the prisoner was committed if the victim has  
5 submitted to the department a written request for any notification  
6 under section 19(1) of the William Van Regenmorter crime victim's  
7 rights act, 1985 PA 87, MCL 780.769, of the proposed placement of  
8 the prisoner in the special alternative incarceration unit. The  
9 notices ~~shall~~**MUST** be sent not later than 30 days before placement  
10 is intended to occur. The department shall not place the prisoner  
11 in a special alternative incarceration unit unless the sentencing  
12 judge, or the judge's successor, notifies the department, in  
13 writing, that he or she does not object to the proposed placement.  
14 In making the decision on whether or not to object, the judge, or  
15 judge's successor, shall review any impact statement submitted  
16 under section 14 of the William Van Regenmorter crime victim's  
17 rights act, 1985 PA 87, MCL 780.764, by the victim or victims of  
18 the crime of which the prisoner was convicted.

19 (5) Notwithstanding subsection (4), a prisoner ~~shall~~**MUST** not  
20 be placed in a special alternative incarceration unit unless the  
21 prisoner consents to that placement and agrees that the department  
22 may suspend or restrict privileges generally afforded other  
23 prisoners including, but not limited to, the areas of visitation,  
24 property, mail, publications, commissary, library, and telephone  
25 access. However, the department may not suspend or restrict the  
26 prisoner's access to the prisoner grievance system.

27 (6) Notwithstanding subsections (4) and (5), a prisoner ~~shall~~

1 **MUST** not be placed in a special alternative incarceration unit  
2 unless all of the following conditions are met for the prisoner at  
3 the special alternative incarceration unit:

4 (a) Upon entry into the special alternative incarceration  
5 unit, a validated risk and need assessment from which a prisoner-  
6 specific transition accountability plan and prisoner-specific  
7 programming during program enrollment are utilized.

8 (b) Interaction with community-based service providers through  
9 established prison in-reach services from the community to which  
10 the prisoner will return is utilized.

11 (c) Prisoner discharge planning is utilized.

12 (d) Community follow-up services are utilized.

13 (7) A prisoner may be placed in a special alternative  
14 incarceration program for a period of not less than 90 days or more  
15 than 120 days. If, during that period, the prisoner misses more  
16 than 5 days of program participation due to medical excuse for  
17 illness or injury occurring after he or she was placed in the  
18 program, the period of placement ~~shall~~**MUST** be increased by the  
19 number of days missed, beginning with the sixth day of medical  
20 excuse, up to a maximum of 20 days. However, the total number of  
21 days a prisoner may be placed in this program, including days  
22 missed due to medical excuse, ~~shall~~**MUST** not exceed 120 days. A  
23 medical excuse ~~shall~~**MUST** be verified by a physician's statement. A  
24 prisoner who is medically unable to participate in the program for  
25 more than 25 days shall be returned to a state correctional  
26 facility but may be reassigned to the program if the prisoner meets  
27 the eligibility requirements of subsections (2) and (3).

1           (8) Upon certification of completion of the special  
2 alternative incarceration program, the prisoner ~~shall~~**MUST** be  
3 placed on parole. A prisoner paroled under this section ~~shall~~**MUST**  
4 have conditions of parole as determined appropriate by the parole  
5 board and ~~shall~~**MUST** be placed on parole for not less than 18  
6 months, or the balance of the prisoner's minimum sentence,  
7 whichever is greater, with ~~at least~~**NOT LESS THAN** the first 120  
8 days under intensive supervision.

9           (9) The parole board may suspend or revoke parole for any  
10 prisoner paroled under this section subject to sections 39a and  
11 40a. ~~For a prisoner other than a prisoner subject to disciplinary~~  
12 ~~time, if~~**IF** parole is revoked before the expiration of the  
13 prisoner's minimum sentence, less ~~disciplinary credits,~~**GOOD TIME,**  
14 the parole board shall forfeit, under section ~~33(13)~~**33(12)** of 1893  
15 PA 118, MCL 800.33, all ~~disciplinary credits that were~~**GOOD TIME**  
16 accumulated during special alternative incarceration, and the  
17 prisoner ~~shall~~**MUST** be considered for parole under section 35.

18           (10) The department shall report annually to the legislature  
19 the impact of the operation of this section, including a report  
20 concerning recidivism.

21           (11) The department shall contract annually for third-party  
22 evaluations that report on both of the following:

23           (a) The implementation of the requirements of subsection (6).

24           (b) The success of the special alternative incarceration  
25 program as revised under subsection (6), as evidenced by the extent  
26 to which participants subsequently violate the conditions of their  
27 parole, have their orders of parole revoked, or revictimize as

1 evidenced by being arrested or convicted for new offenses,  
2 absconding from parole, or having outstanding warrants.

3 (12) Each prisoner or probationer placed in the special  
4 alternative incarceration program shall fully participate in the  
5 Michigan prisoner reentry initiative.

6 Sec. 35. (1) The release of a prisoner on parole must be  
7 granted solely upon the initiative of the parole board. There is no  
8 entitlement to parole. The parole board may grant a parole without  
9 interviewing the prisoner if, after evaluating the prisoner  
10 according to the parole guidelines, the parole board determines  
11 that the prisoner has a high probability of being paroled and the  
12 parole board therefore intends to parole the prisoner. Except as  
13 provided in subsection (2), a prisoner must not be denied parole  
14 without an interview before 1 member of the parole board. The  
15 interview must be conducted at least 1 month before the expiration  
16 of the prisoner's minimum sentence less applicable good time. ~~and~~  
17 ~~disciplinary credits for a prisoner eligible for good time and~~  
18 ~~disciplinary credits, or at least 1 month before the expiration of~~  
19 ~~the prisoner's minimum sentence for a prisoner subject to~~  
20 ~~disciplinary time.~~ The parole board shall consider any statement  
21 made to the parole board by a crime victim under the William Van  
22 Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to  
23 780.834, or under any other provision of law. The parole board  
24 shall not consider any of the following factors in making a parole  
25 determination:

26 (a) A juvenile record that a court has ordered the department  
27 to expunge.

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

7 (2) If, after evaluating a prisoner according to the parole  
8 guidelines, the parole board determines that the prisoner has a low  
9 probability of being paroled and the parole board therefore does  
10 not intend to parole the prisoner, the parole board is not required  
11 to interview the prisoner before denying parole to the prisoner.

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

14 (a) A prisoner's marital history.

15 (b) Prior arrests not resulting in conviction or adjudication  
16 of delinquency.

17 (4) If an interview is to be conducted, the prisoner must be  
18 sent a notice of intent to conduct an interview not less than 1  
19 month before the date of the interview. The notice must state the  
20 specific issues and concerns that will be discussed at the  
21 interview and that may be a basis for a denial of parole. The  
22 parole board shall not deny parole based on reasons other than  
23 those stated in the notice of intent to conduct an interview except  
24 for good cause stated to the prisoner at or before the interview  
25 and in the written explanation required by subsection (12).

26 (5) Except for good cause, the parole board member conducting  
27 the interview shall not have cast a vote for or against the

1 prisoner's release before conducting the current interview. Before  
2 the interview, the parole board member who is to conduct the  
3 interview shall review pertinent information relative to the notice  
4 of intent to conduct an interview.

5 (6) A prisoner may waive the right to an interview by 1 member  
6 of the parole board. The waiver of the right to be interviewed must  
7 be in writing and given not more than 30 days after the notice of  
8 intent to conduct an interview is issued. During the interview held  
9 under a notice of intent to conduct an interview, the prisoner may  
10 be represented by an individual of his or her choice. The  
11 representative shall not be another prisoner or an attorney. A  
12 prisoner is not entitled to appointed counsel at public expense.  
13 The prisoner or representative may present relevant evidence in  
14 support of release.

15 (7) ~~At least~~ **NOT LESS THAN** 90 days before the expiration of  
16 the prisoner's minimum sentence less applicable good time ~~and~~  
17 ~~disciplinary credits for a prisoner eligible for good time or~~  
18 ~~disciplinary credits, or at least 90 days before the expiration of~~  
19 ~~the prisoner's minimum sentence for a prisoner subject to~~  
20 ~~disciplinary time, or~~ **90 DAYS BEFORE** the expiration of a 12-month  
21 continuance ~~for any prisoner,~~ the appropriate institutional staff  
22 shall prepare a parole eligibility report. The parole eligibility  
23 report is considered pertinent information for purposes of  
24 subsection (5). The report must include all of the following:

25 (a) A statement of all major misconduct charges of which the  
26 prisoner was found guilty and the punishment served for the  
27 misconduct.

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

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

4 (d) Whether the prisoner fully cooperated with this state by  
5 providing complete financial information as required under section  
6 3a of the state correctional facility reimbursement act, 1935 PA  
7 253, MCL 800.403a.

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

10 ~~— (f) For a prisoner subject to disciplinary time, a statement~~  
11 ~~of all disciplinary time submitted for the parole board's~~  
12 ~~consideration under section 34 of 1893 PA 118, MCL 800.34.~~

13 **(F)** ~~(g)~~ The result on any validated risk assessment  
14 instrument.

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

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

22 (10) The parole board may grant a medical parole for a  
23 prisoner determined to be physically or mentally incapacitated. A  
24 decision to grant a medical parole must be initiated on the  
25 recommendation of the bureau of health care services and must be  
26 reached only after a review of the medical, institutional, and  
27 criminal records of the prisoner.

1           (11) The department shall file a petition to the appropriate  
2 court under section 434 of the mental health code, 1974 PA 258, MCL  
3 330.1434, for any prisoner being paroled or being released after  
4 serving his or her maximum sentence whom the department considers  
5 to be a person requiring treatment. The parole board shall require  
6 mental health treatment as a special condition of parole for any  
7 parolee whom the department has determined to be a person requiring  
8 treatment whether or not the petition filed for that prisoner is  
9 granted by the court. As used in this subsection, "person requiring  
10 treatment" means that term as defined in section 401 of the mental  
11 health code, 1974 PA 258, MCL 330.1401.

12           (12) When the parole board makes a final determination not to  
13 release a prisoner, the parole board shall provide the prisoner  
14 with a written explanation of the reason for denial and, if  
15 appropriate, specific recommendations for corrective action the  
16 prisoner may take to facilitate release.

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

20           Sec. 36. (1) All paroles ~~shall~~**MUST** be ordered by the parole  
21 board and ~~shall~~**MUST** be signed by the chairperson. Written notice  
22 of the order ~~shall~~**MUST** be sent by first-class mail or by  
23 electronic means to the prosecuting attorney and the sheriff or  
24 other police officer of the municipality or county in which the  
25 prisoner was convicted and to the prosecuting attorney and the  
26 sheriff or other local police officer of the municipality or county  
27 to which the paroled prisoner is sent or is to be sent. The notice

1 ~~shall~~**MUST** be provided ~~within~~**NOT MORE THAN** 10 days after the  
2 parole board issues its order to parole the prisoner.

3 (2) A parole order may be rescinded at the discretion of the  
4 parole board for cause before the prisoner is released on parole. A  
5 parole ~~shall~~**MUST** not be revoked unless an interview with the  
6 prisoner is conducted by 1 member of the parole board. The purpose  
7 of the interview is to consider and act upon information received  
8 by the board after the original parole release decision. A  
9 revocation interview ~~shall~~**MUST** be conducted ~~within~~**NOT MORE THAN**  
10 45 days after ~~receiving~~**THE BOARD RECEIVED** the new information. ~~At~~  
11 ~~least~~**NOT LESS THAN** 10 days before the interview, the parolee ~~shall~~  
12 **MUST** receive a copy or summary of the new evidence that is the  
13 basis for the interview.

14 (3) A parole order may be amended at the discretion of the  
15 parole board for cause. An amendment to a parole order ~~shall~~**MUST**  
16 be in writing and is not effective until notice of the amendment is  
17 given to the parolee.

18 (4) When a parole order is issued, the order ~~shall~~**MUST**  
19 contain the conditions of the parole and ~~shall~~**MUST** specifically  
20 provide proper means of supervision of the paroled prisoner in  
21 accordance with the rules of the ~~bureau of field services~~**FIELD**  
22 **OPERATIONS ADMINISTRATION**.

23 (5) The parole order ~~shall~~**MUST** contain a condition to pay  
24 restitution to the victim of the prisoner's crime or the victim's  
25 estate if the prisoner was ordered to make restitution under the  
26 William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL  
27 780.751 to 780.834, or the code of criminal procedure, 1927 PA 175,

1 MCL 760.1 to 777.69.

2 (6) The parole order ~~shall~~**MUST** contain a condition requiring  
3 the parolee to pay a parole supervision fee as prescribed in  
4 section 36a.

5 (7) The parole order ~~shall~~**MUST** contain a condition requiring  
6 the parolee to pay any assessment the prisoner was ordered to pay  
7 under section 5 of 1989 PA 196, MCL 780.905.

8 (8) The parole order ~~shall~~**MUST** contain a condition requiring  
9 the parolee to pay the minimum state cost prescribed by section 1j  
10 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL  
11 769.1j, if the minimum state cost has not been paid.

12 (9) If the parolee is required to be registered under the sex  
13 offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, the  
14 parole order ~~shall~~**MUST** contain a condition requiring the parolee  
15 to comply with that act.

16 (10) If a prisoner convicted of violating or conspiring to  
17 violate section 7401(2)(a)(i) or (ii) or 7403(2)(a)(i) or (ii) of  
18 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, is  
19 released on parole, the parole order ~~shall~~**MUST** contain a notice  
20 that if the parolee violates or conspires to violate article 7 of  
21 the public health code, 1978 PA 368, MCL 333.7101 to 333.7545, and  
22 that violation or conspiracy to violate is punishable by  
23 imprisonment for 4 or more years, or commits a violent felony  
24 during his or her release on parole, parole ~~shall~~**MUST** be revoked.

25 ~~(11) A parole order issued for a prisoner subject to~~  
26 ~~disciplinary time may contain a condition requiring the parolee to~~  
27 ~~be housed in a community corrections center or a community~~

1 ~~residential home for not less than the first 30 days but not more~~  
2 ~~than the first 180 days of his or her term of parole. As used in~~  
3 ~~this subsection, "community corrections center" and "community~~  
4 ~~residential home" mean those terms as defined in section 65a.~~

5 (11) ~~(12)~~—The parole order ~~shall~~ **MUST** contain a condition  
6 requiring the parolee to pay the following amounts owed by the  
7 prisoner, if applicable:

8 (a) The balance of filing fees and costs ordered to be paid  
9 under section 2963 of the revised judicature act of 1961, 1961 PA  
10 236, MCL 600.2963.

11 (b) The balance of any filing fee ordered to be paid by a  
12 federal court under 28 USC 1915 and any unpaid order of costs  
13 assessed against the prisoner.

14 (12) ~~(13)~~—In each case in which payment of restitution is  
15 ordered as a condition of parole, a parole officer assigned to a  
16 **THE** case shall review the case not less than twice yearly to ensure  
17 that restitution is being paid as ordered. The final review ~~shall~~  
18 **MUST** be conducted not less than 60 days before the expiration of  
19 the parole period. If the parole officer determines that  
20 restitution is not being paid as ordered, the parole officer shall  
21 file a written report of the violation with the parole board on a  
22 form prescribed by the parole board. The report ~~shall~~ **MUST** include  
23 a statement of the amount of arrearage and any reasons for the  
24 arrearage known by the parole officer. The parole board shall  
25 immediately provide a copy of the report to the court, the  
26 prosecuting attorney, and the victim.

27 (13) ~~(14)~~—If a parolee is required to register under the sex

1 offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, the  
2 parole officer shall register the parolee as provided in that act.

3 (14) ~~(15) Beginning August 28, 2006, if~~ **IF** a parolee convicted  
4 of violating or conspiring to violate section 520b or 520c of the  
5 Michigan penal code, 1931 PA 328, MCL 750.520b and 750.520c, other  
6 than a parolee who is subject to lifetime electronic monitoring  
7 under section 85, is placed on parole, the parole board may require  
8 that the parolee be subject to electronic monitoring. The  
9 electronic monitoring required under this subsection ~~shall~~ **MUST** be  
10 conducted in the same manner, and ~~shall be~~ **IS** subject to the same  
11 requirements, as is described in ~~section 85 of this act and section~~  
12 520n(2) of the Michigan penal code, 1931 PA 328, MCL 750.520n, **AND**  
13 **SECTION 85**, except as follows:

14 (a) The electronic monitoring ~~shall~~ **MUST** continue only for the  
15 duration of the term of parole.

16 (b) A violation by the parolee of any requirement prescribed  
17 in section ~~520n(2) (a) to (c)~~ **520N(2)** is a violation of a condition  
18 of parole, not a felony violation.

19 (15) ~~(16)~~ If the parole order contains a condition intended to  
20 protect 1 or more named persons, the department shall enter those  
21 provisions of the parole order into the corrections management  
22 information system, accessible by the law enforcement information  
23 network. If the parole board rescinds a parole order described in  
24 this subsection, the department within 3 business days shall remove  
25 from the corrections management information system the provisions  
26 of that parole order.

27 (16) ~~(17)~~ Each prisoner who is required to be registered under

1 the sex offenders registration act, 1994 PA 295, MCL 28.721 to  
2 28.736, before being released on parole or being released upon  
3 completion of his or her maximum sentence, shall provide to the  
4 department notice of the location of his or her proposed place of  
5 residence or domicile. The department then shall forward that  
6 notice of location to the appropriate law enforcement agency as  
7 required under section 5(3) of the sex offenders registration act,  
8 1994 PA 295, MCL 28.725. A prisoner who refuses to provide notice  
9 of the location of his or her proposed place of residence or  
10 domicile or knowingly provides an incorrect notice of the location  
11 of his or her proposed place of residence or domicile under this  
12 subsection is guilty of a felony punishable by imprisonment for not  
13 more than 4 years or a fine of not more than \$2,000.00, or both.

14 (17) ~~(18)~~—If a prisoner is serving a sentence for violating  
15 section 411i of the Michigan penal code, 1931 PA 328, MCL 750.411i,  
16 ~~(aggravated stalking)~~, and if a victim of that crime has registered  
17 to receive notices about that prisoner under the William Van  
18 Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to  
19 780.834, the parole order for that prisoner ~~shall~~**MUST** require that  
20 the prisoner's location be monitored by a global positioning  
21 monitoring system during the entire period of the prisoner's  
22 parole. If, at the time a prisoner described in this subsection is  
23 paroled, no victim of the crime has registered to receive notices  
24 about that prisoner under the William Van Regenmorter crime  
25 victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, but a  
26 victim of the crime subsequently registers to receive those  
27 notices, the prisoner's order of parole ~~shall~~**MUST** immediately be

1 modified to require that the prisoner's location be monitored by a  
2 global positioning system during the balance of the period of that  
3 prisoner's parole. As used in this subsection, "global positioning  
4 monitoring system" means a system that electronically determines  
5 and reports the location of an individual by means of an ankle  
6 bracelet transmitter or similar device worn by the individual,  
7 which transmits latitude and longitude data to monitoring  
8 authorities through global positioning satellite technology but  
9 does not include any radio frequency identification technology,  
10 global positioning technology, or similar technology that would be  
11 implanted in the parolee or would otherwise violate the corporeal  
12 body of the parolee.

13       (18) ~~(19)~~—The parole order ~~shall~~**MUST** require the parolee to  
14 provide written consent to submit to a search of his or her person  
15 or property upon demand by a peace officer or parole officer. The  
16 written consent ~~shall~~**MUST** include the prisoner's name and date of  
17 birth, his or her physical description, the date for release on  
18 parole, and the ending date for that parole. The prisoner shall  
19 sign the written consent before being released on parole. The  
20 department shall promptly enter this condition of parole into the  
21 department's corrections management information system or offender  
22 management network information system or into a corresponding  
23 records management system that is accessible through the law  
24 enforcement information network. Consent to a search as provided  
25 under this subsection does not authorize a search that is conducted  
26 with the sole intent to intimidate or harass.

27       (19) ~~(20)~~—As used in this section, "violent felony" means an

1 offense against a person in violation of section 82, 83, 84, 86,  
2 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d,  
3 520e, 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA  
4 328, MCL 750.82, 750.83, 750.84, 750.86, 750.87, 750.88, 750.89,  
5 750.316, 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397,  
6 750.520b, 750.520c, 750.520d, 750.520e, 750.520g, 750.529,  
7 750.529a, and 750.530.

8       Sec. 51. (1) There is created within the department a hearings  
9 division. The division is under the direction and supervision of  
10 the hearings administrator who is appointed by the director of the  
11 department.

12       (2) Except as otherwise provided in this section, the hearings  
13 division is responsible for each prisoner hearing the department  
14 conducts that may result in the loss by a prisoner of a right,  
15 including but not limited to any 1 or more of the following  
16 matters:

17       (a) An infraction of a prison rule that may result in punitive  
18 segregation, ~~loss of disciplinary credits,~~ or the loss of good  
19 time.

20       (b) A security classification that may result in the placement  
21 of a prisoner in administrative segregation.

22       (c) A special designation that permanently excludes, by  
23 department policy or rule, a person under the jurisdiction of the  
24 department from community placement.

25       (d) Visitor restrictions.

26       (e) High or very high assaultive risk classifications.

27 ~~(3) Except as otherwise provided in this section, the hearings~~

1 ~~division is responsible for each prisoner hearing that may result~~  
 2 ~~in the accumulation of disciplinary time.~~

3 (3) ~~(4)~~—The hearings division is not responsible for a  
 4 prisoner hearing that is conducted for prisoners transferred under  
 5 section 11a to an institution of another state pursuant to the  
 6 interstate corrections compact.

7 (4) ~~(5)~~—The hearings division is not responsible for a  
 8 prisoner hearing that is conducted as a result of a minor  
 9 misconduct charge that would not cause a loss of good time or  
 10 ~~disciplinary credits,~~ or result in placement in punitive  
 11 segregation.

12 (5) ~~(6)~~—Each hearings officer of the department is under the  
 13 direction and supervision of the hearings division. Each hearings  
 14 officer hired by the department after October 1, 1979, ~~shall~~ **MUST**  
 15 be an attorney.

16 Sec. 65. (1) Under rules promulgated by the director of the  
 17 department, the assistant director in charge of the ~~bureau of~~  
 18 correctional facilities **ADMINISTRATION**, except as otherwise  
 19 provided in this section, may cause the transfer or ~~re-transfer~~  
 20 **RETRANSFER** of a prisoner from a correctional facility to which **THE**  
 21 **PRISONER WAS** committed to any other correctional facility, or  
 22 temporarily to a state institution for medical or surgical  
 23 treatment. In effecting a transfer, the assistant director **IN**  
 24 **CHARGE** of the ~~bureau of~~ correctional facilities **ADMINISTRATION** may  
 25 utilize the services of an executive or employee within the  
 26 department and of a law enforcement officer of ~~the~~ **THIS** state.

27 ~~—(2) A prisoner who is subject to disciplinary time and is~~

1 ~~committed to the jurisdiction of the department shall be confined~~  
2 ~~in a secure correctional facility for the duration of his or her~~  
3 ~~minimum sentence, except for periods when the prisoner is away from~~  
4 ~~the secure correctional facility while being supervised by an~~  
5 ~~employee of the department or by an employee of a private~~  
6 ~~contractor that operates a facility or institution that houses~~  
7 ~~prisoners under the jurisdiction of the department for 1 of the~~  
8 ~~following purposes:~~

9 ~~—— (a) Visiting a critically ill relative.~~

10 ~~—— (b) Attending the funeral of a relative.~~

11 ~~—— (c) Obtaining medical services not otherwise available at the~~  
12 ~~secure correctional facility.~~

13 ~~—— (d) Participating in a work detail.~~

14 (2) ~~(3)~~ As used in this section, "offender" means a citizen of  
15 the United States or a foreign country who has been convicted of a  
16 crime and been given a sentence in a country other than the country  
17 of which he or she is a citizen. If a treaty is in effect between  
18 the United States and a foreign country, which provides for the  
19 transfer of offenders from the jurisdiction of 1 of the countries  
20 to the jurisdiction of the country of which the offender is a  
21 citizen, and if the offender requests the transfer, the governor of  
22 this state or a person designated by the governor may give the  
23 approval of this state to a transfer of an offender, if the  
24 conditions of the treaty are satisfied.

25 (3) ~~(4)~~ Not less than 45 days before approval of a transfer  
26 ~~pursuant to~~ **UNDER** subsection ~~(3)~~ **(2)** from this state to another  
27 country, the governor, or the governor's designee, shall notify the

1 sentencing judge and the prosecuting attorney of the county having  
2 original jurisdiction, or their successors in office, of the  
3 request for transfer. The notification ~~shall~~**MUST** indicate any name  
4 changes of the offender subsequent to sentencing. Within 20 days  
5 after receiving ~~such~~**THE** notification, the judge or prosecutor may  
6 send to the governor, or the governor's designee, information about  
7 the criminal action against the offender or objections to the  
8 transfer. Objections to the transfer ~~shall~~**DO** not preclude approval  
9 of the transfer.

10 ~~—— (5) As used in this section, "secure correctional facility"~~  
11 ~~means a facility that houses prisoners under the jurisdiction of~~  
12 ~~the department according to the following requirements:~~

13 ~~—— (a) The facility is enclosed by a locked fence or wall that is~~  
14 ~~designed to prevent prisoners from leaving the enclosed premises~~  
15 ~~and that is patrolled by correctional officers.~~

16 ~~—— (b) Prisoners in the facility are restricted to the area~~  
17 ~~inside the fence or wall.~~

18 ~~—— (c) Prisoners are under guard by correctional officers 7 days~~  
19 ~~per week, 24 hours per day.~~

20       Sec. 65a. (1) Under prescribed conditions, the director may  
21 extend the limits of confinement of a prisoner when there is  
22 reasonable assurance, after consideration of all facts and  
23 circumstances, that the prisoner will not become a menace to  
24 society or to the public safety, by authorizing the prisoner to do  
25 any of the following:

26       (a) Visit a specifically designated place or places. An  
27 extension of limits may be granted only to a prisoner housed in a

1 state correctional facility to permit a visit to a critically ill  
2 relative, attendance at the funeral of a relative, or contacting  
3 prospective employers. The maximum amount of time a prisoner is  
4 eligible for an extension of the limits of confinement under this  
5 subdivision ~~shall~~**MUST** not exceed a cumulative total period of 30  
6 days.

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

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

14 (2) The director shall promulgate rules to implement this  
15 section.

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

22 (4) Subject to subsection ~~(8)~~, **(7)**, a prisoner ~~, other than a~~  
23 ~~prisoner subject to disciplinary time,~~ who is convicted of a crime  
24 of violence or any assaultive crime is not eligible for the  
25 extensions of the limits of confinement provided in subsection (1)  
26 until the minimum sentence imposed for the crime has less than 180  
27 days remaining.

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

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

10 (6) ~~(7)~~ A prisoner serving a sentence for murder in the first  
11 degree is not eligible for the extensions of confinement under this  
12 section until a parole release date is established by the parole  
13 board and in no case before serving 15 calendar years with a good  
14 institutional adjustment.

15 (7) ~~(8)~~ A prisoner who is convicted of a crime of violence or  
16 any assaultive crime, and whose minimum sentence imposed for the  
17 crime is 10 years or more, ~~shall~~ **MUST** not be placed in a community  
18 residential home during any portion of his or her sentence.

19 (8) ~~(9)~~ As used in this section:

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

23 (b) "Community residential home" means a location where  
24 electronic monitoring of prisoner presence is provided by the  
25 department 7 days per week, 24 hours per day, except that the  
26 department may waive the requirement that electronic monitoring be  
27 provided as to any prisoner who is within 3 months of his or her

1 parole date.

2 (c) "State correctional facility" means a facility or  
3 institution that houses a prisoner population under the  
4 jurisdiction of the department. State correctional facility does  
5 not include a community corrections center or community residential  
6 home.

7 Enacting section 1. Sections 33b and 33c of the corrections  
8 code of 1953, 1953 PA 232, MCL 791.233b and 791.233c, are repealed  
9 effective 90 days after the date this amendatory act is enacted  
10 into law.

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

13 Enacting section 3. This amendatory act does not take effect  
14 unless all of the following bills of the 99th Legislature are  
15 enacted into law:

16 (a) House Bill No. 5666.

17 (b) House Bill No. 5667.