

CORRECTIONS CODE OF 1953 (EXCERPT)
Act 232 of 1953
Chapter I
DEPARTMENT OF CORRECTIONS.

791.201 State department of corrections; creation; powers and duties; administration; Michigan corrections commission; appointment, qualifications, and terms of members; officers and assistants; director as executive head; vacancy; compensation and expenses; executive office; office accommodations; meetings.

Sec. 1.

There is hereby created a state department of corrections, hereinafter called the department, which shall possess the powers and perform the duties granted and conferred. The department shall consist of and be administered by a commission of 6 members appointed by the governor, by and with the advice and consent of the senate, to be known as the Michigan corrections commission, hereinafter called the commission, not more than 3 of whom shall be members of the same political party, each of whom shall qualify by taking the constitutional oath of office, and filing the same in the office of the secretary of state, and of such other officers and assistants as may be appointed or employed in the department, including a director as its executive head. A person holding a position either state or federal, or a person drawing a salary from a municipal unit of the state, shall not be eligible for appointment to the commission, without having first resigned from that position. The term of office of each member of the commission shall be 6 years. The governor shall fill a vacancy occurring in the membership of the commission for the unexpired term only, and for cause established on hearing may remove a member. Each member of the commission shall hold office until his successor shall be appointed and shall qualify. The per diem compensation of the commission and the schedule for reimbursement of expenses shall be established annually by the legislature. The department and commission shall have its executive office at Lansing. The department of management and budget shall provide suitable office accommodations. Meetings of the commission may be held at other suitable places as the commission may designate.

History: 1953, Act 232, Eff. Oct. 2, 1953 ;-- Am. 1975, Act 59, Imd. Eff. May 20, 1975

Compiler's Notes: For transfer of the Department of Corrections to a new Department of Corrections, see E.R.O. No. 1991-12, compiled at MCL 791.302 of the Michigan Compiled Laws. For abolition of the Michigan Corrections Commission and transferring its powers, duties, and functions to the Director of the new Department of Corrections with the exception that the power to appoint the Director shall be vested with the Governor, see E.R.O. No. 1991-12, compiled at MCL 791.302 of the Michigan Compiled Laws. For transfer of powers and duties of Michigan parole and commutation board to Michigan parole board within department of corrections, and abolishment of Michigan parole and commutation board, see E.R.O. No. 2011-3, compiled at MCL 791.305.

Popular Name: Department of Corrections Act

791.201a Short title.

Sec. 1a.

This act shall be known and may be cited as the "corrections code of 1953".

History: Add. 2002, Act 212, Imd. Eff. Apr. 29, 2002

Popular Name: Department of Corrections Act

791.202 Michigan corrections commission; election of chairperson and other officers; meetings; quorum; powers and duties; conducting business at public meeting; notice.

Sec. 2.

(1) The commission shall elect annually a chairperson and other officers as it considers expedient. A meeting shall be held not less than once each month or at other times as considered necessary. A majority of the total

membership of the commission shall constitute a quorum for the transaction of business. The commission shall constitute the responsible authority for the administration of the correctional facilities, correctional industries, parole, and probation of the state, subject to the limitations set forth in this act. The commission shall determine all matters relating to the unified development of the correctional facilities, correctional industries, parole, and probation of the state and shall coordinate and adjust the agencies and correctional facilities within its jurisdiction so that each shall form an integral part of a general system.

(2) The business which the commission may perform shall be conducted at a public meeting held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

History: 1953, Act 232, Eff. Oct. 2, 1953 ;-- Am. 1978, Act 413, Imd. Eff. Sept. 28, 1978 ;-- Am. 1987, Act 79, Imd. Eff. June 29, 1987

Popular Name: Department of Corrections Act

791.203 Corrections commission; director of corrections, appointment, qualifications, salary, powers and duties.

Sec. 3.

The commission shall appoint a director of corrections who shall be qualified by training and experience in penology. He shall hold office at the pleasure of the commission except that he may be removed for cause and only after a public hearing before the commission. He shall receive such salary as shall be appropriated by the legislature, together with actual and necessary traveling and other expenses. The director shall be the chief administrative officer of the commission and shall be responsible to the commission for the exercise of the powers and duties prescribed and conferred by this act, and for such other powers and duties as may be assigned by the commission, subject at all times to its control. Subject to the provisions of this act, and to the rules and regulations adopted by the commission, the director shall have full power and authority to supervise and control the affairs of the department, and the several bureaus thereof, and he shall carry out the orders of the commission.

History: 1953, Act 232, Eff. Oct. 2, 1953

Popular Name: Department of Corrections Act

791.204 State department of corrections; jurisdiction.

Sec. 4.

Subject to constitutional powers vested in the executive and judicial departments of the state, the department shall have exclusive jurisdiction over all of the following:

- (a) Probation officers of this state, and the administration of all orders of probation.
- (b) Pardons, reprieves, commutations, and paroles.
- (c) Penal institutions, correctional farms, probation recovery camps, prison labor and industry, wayward minor programs, and youthful trainee institutions and programs for the care and supervision of youthful trainees.
- (d) The lifetime electronic monitoring program established under section 85.

History: 1953, Act 232, Eff. Oct. 2, 1953 ;-- Am. 1966, Act 210, Imd. Eff. July 11, 1966 ;-- Am. 2006, Act 172, Eff. Aug. 28, 2006

Popular Name: Department of Corrections Act

791.205 Corrections commission; assistant directors, powers and duties.

Sec. 5.

The director, subject to the approval of the commission, shall appoint an assistant director in charge of probation, an assistant director in charge of pardons and paroles, an assistant director in charge of penal institutions, an assistant director in charge of prison industries, and an assistant director in charge of a youth division. The assistant directors shall exercise and perform the respective powers and duties prescribed and conferred by this act, and such other powers and duties as may be assigned by the director, subject at all times to his control.

History: 1953, Act 232, Eff. Oct. 2, 1953

Popular Name: Department of Corrections Act

791.205a Employment or appointment by department of person convicted or charged with felony; prohibition; exception; policy.

Sec. 5a.

(1) Except as otherwise provided in this section, an individual who has been convicted of a felony, or who is subject to any pending felony charges, shall not be employed by or appointed to a position in the department.

(2) If records available to the department show that an applicant for employment or appointment has been convicted of a felony or is subject to pending felony charges, the department shall inform the applicant of that fact and of his or her resulting ineligibility for employment or appointment. At the request of the applicant, the department shall permit the applicant to review the relevant portion of the records. If the applicant disputes the accuracy of the records, the department shall allow the applicant a reasonable period of time to contact the responsible agency or agencies in order to correct the alleged inaccuracies, and shall allow the applicant to reapply for employment or appointment if the records, as corrected, would remove the ineligibility imposed by this section.

(3) The department shall establish a policy allowing for the employment or appointment of an individual who has been convicted of a felony to a position within the department if the individual's employment or appointment will not negatively impact public safety or the operation of the department.

(4) The policy developed under subsection (3) shall require an extensive background investigation of the applicant and the written approval of the director before the department may employ or appoint an applicant to a position in the department under subsection (3).

(5) An individual who is employed by or appointed to a position in the department under subsection (3) shall not be dismissed from his or her employment by or appointment in the department solely due to a felony conviction that he or she disclosed to the department prior to his or her employment by or appointment to a position in the department.

(6) Subsection (1) does not apply to an individual employed by or appointed to a position in the department before March 25, 1996.

History: Add. 1996, Act 140, Imd. Eff. Mar. 25, 1996 ;-- Am. 2017, Act 191, Eff. Mar. 7, 2018

Popular Name: Department of Corrections Act

791.206 Rules.

Sec. 6.

(1) The director may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for all of the following:

(a) The control, management, and operation of the general affairs of the department.

(b) Supervision and control of probationers and probation officers throughout this state.

(c) The manner in which applications for pardon, reprieve, medical commutation, or commutation shall be made to the governor; the procedures for handling applications and recommendations by the parole board; the manner in which paroles shall be considered, the criteria to be used to reach release decisions, the procedures for medical and special paroles, and the duties of the parole board in those matters; interviews on paroles and for the notice of intent to conduct an interview; the entering of appropriate orders granting or denying paroles; the supervision and control of paroled prisoners; and the revocation of parole.

(d) The management and control of state penal institutions, correctional farms, probation recovery camps, and programs for the care and supervision of youthful trainees separate and apart from persons convicted of crimes within the jurisdiction of the department. Except as provided for in section 62(3), this subdivision does not apply to detention facilities operated by local units of government used to detain persons less than 72 hours. The rules may permit the use of portions of penal institutions in which persons convicted of crimes are detained. The rules shall provide that decisions as to the removal of a youth from the youthful trainee facility or the release of a youth from the supervision of the department shall be made by the department and shall assign responsibility for those decisions to a committee.

(e) The management and control of prison labor and industry.

(f) The director may promulgate rules providing for the creation and operation of a lifetime electronic monitoring program to conduct electronic monitoring of individuals, who have served sentences imposed for certain crimes, following their release from parole, prison, or both parole and prison.

(2) The director may promulgate rules providing for a parole board structure consisting of 3-member panels.

(3) The director may promulgate further rules with respect to the affairs of the department as the director considers necessary or expedient for the proper administration of this act. The director may modify, amend, supplement, or rescind a rule.

(4) The director and the corrections commission shall not promulgate a rule or adopt a guideline that does either of the following:

(a) Prohibits a probation officer or parole officer from carrying a firearm while on duty.

(b) Allows a prisoner to have his or her name changed. If the Michigan supreme court rules that this subdivision is violative of constitutional provisions under the first and fourteenth amendments to the United States constitution and article I, sections 2 and 4 of the state constitution of 1963, the remaining provisions of the code shall remain in effect.

History: 1953, Act 232, Eff. Oct. 2, 1953 ;-- Am. 1966, Act 210, Imd. Eff. July 11, 1966 ;-- Am. 1982, Act 314, Imd. Eff. Oct. 15, 1982 ;-- Am. 1984, Act 102, Imd. Eff. May 8, 1984 ;-- Am. 1986, Act 271, Imd. Eff. Dec. 19, 1986 ;-- Am. 1996, Act 104, Eff. Apr. 1, 1996 ;-- Am. 2006, Act 172, Eff. Aug. 28, 2006

Compiler's Notes: In separate opinions, the Michigan Supreme Court held that Section 45(8), (9), (10), and (12) and the second sentence of Section 46(1) ("An agency shall not file a rule ... until at least 10 days after the date of the certificate of approval by the committee or after the legislature adopts a concurrent resolution approving the rule.") of the Administrative Procedures Act of 1969, in providing for the Legislature's reservation of authority to approve or disapprove rules proposed by executive branch agencies, did not comply with the enactment and presentment requirements of Const 1963, Art 4, and violated the separation of powers provision of Const 1963, Art 3, and, therefore, were unconstitutional. These specified portions were declared to be severable with the remaining portions remaining effective. *Blank v Department of Corrections*, 462 Mich 103 (2000).

Popular Name: Department of Corrections Act

Admin Rule: R 791.1101 et seq. of the Michigan Administrative Code.

791.207 Report to governor and legislature; time; order by board of auditors; printing and distribution.

Sec. 7.

On or before the 15th day of January of each year, the commission shall make to the governor and legislature a report of the department for the preceding fiscal year. Such report, if so ordered by the board of state auditors, shall be printed and distributed in such manner and to such persons, organizations, institutions and officials as said board may direct.

History: 1953, Act 232, Eff. Oct. 2, 1953

Popular Name: Department of Corrections Act

791.207a Records of department; accessibility by governing bodies of senate and house fiscal agency.

Sec. 7a.

(1) Except as provided in subsection (2), the governing bodies of the senate and house fiscal agencies shall have access to all records of the department of corrections relating to individuals under the supervision of the department

of corrections including, but not limited to, records contained in basic information reports and in the corrections management information system, the parole board information system, and any successor databases.

(2) Records shall not be accessible under subsection (1) if the department of corrections determines that any of the following applies:

- (a) Access is restricted or prohibited by law.
- (b) Access could jeopardize an ongoing investigation.
- (c) Access could jeopardize the safety of a prisoner, employee, or other person.
- (d) Access could jeopardize the safety, custody, or security of an institution or other facility.

(3) The records that are to be accessed, and the manner of access to those records, shall be determined under a written agreement entered into jointly between the governing board of the senate fiscal agency, the governing committee of the house fiscal agency, and the department of corrections. The agreement shall ensure the confidentiality of accessed records.

History: Add. 1998, Act 315, Eff. Dec. 15, 1998

Popular Name: Department of Corrections Act

791.208 Division of criminal statistics; powers and duties of director.

Sec. 8.

Within the department there shall be established a general division of criminal statistics under the supervision and control of the director. He shall have the power and it shall be his duty to obtain from all chiefs of police, sheriffs, state police, prosecuting attorneys, courts, judges, parole and probation officers and all others concerned in the control, apprehension, trial, probation, parole and commitments of adult criminals and delinquents in this state, periodical reports as to the number and kinds of offenses known to law enforcement officers; the numbers, age, sex, race, nativity and offenses of criminals and delinquents arrested, tried and otherwise disposed of; the sentences imposed and whether executed or suspended; the numbers placed on parole and probation and the reasons therefor and such other information as he may deem necessary. It shall be the duty of all such chiefs of police, sheriffs, state police, prosecuting attorneys, courts, judges, parole and probation officers and others concerned to make such reports at such times and in such manner, and to furnish such facilities for investigation as the director may reasonably require.

History: 1953, Act 232, Eff. Oct. 2, 1953

Popular Name: Department of Corrections Act

791.208a Definitions; recidivism rates; collection and maintenance of data; manner.

Sec. 8a.

(1) As used in this act:

(a) "Recidivism" means any rearrest, reconviction, or reincarceration in prison or jail for a felony or misdemeanor offense or a probation or parole violation of an individual as measured first after 3 years and again after 5 years from the date of his or her release from incarceration, placement on probation, or conviction, whichever is later.

(b) "Technical parole violation" means a violation of the terms of a parolee's parole order that is not a violation of a law of this state, a political subdivision of this state, another state, or the United States or of tribal law.

(c) "Technical probation violation" means a violation of the terms of a probationer's probation order that is not a violation of a law of this state, a political subdivision of this state, another state, or the United States or of tribal law.

(2) Any data collected and maintained under this act regarding recidivism rates must be collected and maintained in a manner that separates the data regarding technical probation violations and technical parole violations from data on new felony and misdemeanor convictions.

History: Add. 2017, Act 4, Eff. June 29, 2017

Popular Name: Department of Corrections Act

791.209 Corrections commission; crime prevention and criminology research.

Sec. 9.

The commission shall study the problem of crime prevention and foster research in criminology. It shall lend its aid in local crime prevention activities.

History: 1953, Act 232, Eff. Oct. 2, 1953

Popular Name: Department of Corrections Act

791.210 Corrections commission; bond of officers and employees, purpose.

Sec. 10.

The commission may require a bond from any officer or employee appointed by or subject to the control of the commission, conditioned upon the faithful performance of his duties and the accounting for all money and property within his control.

History: 1953, Act 232, Eff. Oct. 2, 1953

Popular Name: Department of Corrections Act

791.211 Corrections commission; powers and duties.

Sec. 11.

The commission shall exercise the powers and duties created by Act No. 89 of the Public Acts of 1935, being sections 798.101 to 798.103, inclusive, of the Compiled Laws of 1948, and by any interstate compact made and entered into pursuant to said act, in regard to the control and supervision of parolees and probationers, and in regard to cooperative effort and mutual assistance in the prevention of crime and in the enforcement of the penal laws and policies of the contracting states, and the commission may promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of the aforesaid act and compacts made pursuant thereto.

History: 1953, Act 232, Eff. Oct. 2, 1953

Popular Name: Department of Corrections Act

791.211a Interstate corrections compact; contracts; suitability of institutions for confinement; out-of-state transfer of prisoners; conditions.

Sec. 11a.

(1) The director of corrections may enter into contracts on behalf of this state as the director considers appropriate to implement the participation of this state in the interstate corrections compact under article III of the interstate corrections compact. The contracts may authorize confinement of prisoners in, or transfer of prisoners from, correctional facilities under the jurisdiction of the department. A contract must not authorize the confinement of a prisoner who is in the custody of the department in an institution of a state other than a state that is a party to the interstate corrections compact. When transferring prisoners to institutions of other states under this section, the

director shall endeavor to ensure that the transfers do not disproportionately affect groups of prisoners according to race, religion, color, creed, or national origin.

(2) The director of corrections shall first determine, on the basis of an inspection made by his or her direction, that an institution of another state is a suitable place for confinement of prisoners committed to his or her custody before entering into a contract permitting that confinement, and shall, at least annually, redetermine the suitability of that confinement. In determining the suitability of an institution of another state, the director shall determine that the institution maintains standards of care and discipline not incompatible with those of this state and that all inmates confined in that institution are treated equitably, regardless of race, religion, color, creed, or national origin.

(3) In considering transfers of prisoners out-of-state under the interstate corrections compact due to bed space needs the department shall do all of the following:

(a) Consider first prisoners who volunteer to transfer as long as they meet the eligibility criteria for such transfer.

(b) Provide law library materials including Michigan Compiled Laws, Michigan state and federal cases, and United States Sixth Circuit Court cases.

(c) Not transfer a prisoner who has a significant medical or mental health need.

(d) Use objective criteria in determining which prisoners to transfer.

(4) Unless a prisoner consents in writing, a prisoner transferred under the interstate corrections compact due to bed space needs must not be confined in another state for more than 1 year.

(5) A prisoner who is transferred to an institution of another state under this section must receive all of the following while in the receiving state:

(a) Mail services and access to the court.

(b) Visiting and telephone privileges.

(c) Occupational and vocational programs such as GED-ABE and appropriate vocational programs for his or her level of custody.

(d) Programs such as substance abuse programs, sex offender programs, and life skills development.

(e) Routine and emergency health care, dental care, and mental health services.

History: Add. 1994, Act 93, Imd. Eff. Apr. 13, 1994 ;-- Am. 1998, Act 204, Imd. Eff. June 30, 1998 ;-- Am. 2018, Act 295, Eff. Sept. 27, 2018

Popular Name: Department of Corrections Act

791.212 Michigan corrections commission; seal; rules and orders; records and papers as evidence; commission as body corporate; leasing lands and granting easements; availability of certain writings to public.

Sec. 12.

(1) The commission shall devise a seal, and the rules of the commission shall be published over the seal of the commission. All orders of the commission shall be issued over the seal of the commission. A copy of the records and papers in the office of the department, certified by an authorized agent of the commission and authenticated by the seal of the commission, shall be evidence in all cases with the same effect as the originals. A description of the seal, with an impression of the seal, shall be filed in the office of the secretary of state. The commission shall be a body corporate, and may lease lands under its jurisdiction, grant easements over, through, under, or across those lands for a lawful purpose, and do any other act necessary to carry out this act.

(2) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1953, Act 232, Eff. Oct. 2, 1953 ;-- Am. 1974, Act 357, Imd. Eff. Dec. 21, 1974 ;-- Am. 1978, Act 413, Imd. Eff. Sept. 28, 1978

Popular Name: Department of Corrections Act

791.213 Corrections commission; gifts, donations, bonds, real or personal property; purpose.

Sec. 13.

The commission may receive on behalf of the state of Michigan any grant, devise, bequest, donation, gift or assignment of money, bonds or choses in action, or of any property, real or personal, and accept the same, so that the right and title to the same shall pass to the state of Michigan; and all such bonds, notes or choses in action, or the proceeds thereof when collected, and all other property or thing of value so received by the commission shall be used for the purposes set forth in the grant, devise, bequest, donation, gift or assignment: Provided, That such purposes shall be within the powers conferred on said commission. Whenever it shall be necessary to protect or assert the right or title of the commission to any property so received or derived as aforesaid, or to collect or reduce into possession any bond, note, bill or chose in action, the attorney general is directed to take the necessary and proper proceedings and to bring suit in the name of the commission on behalf of the state of Michigan in any court of competent jurisdiction, state or federal, and to prosecute all such suits.

History: 1953, Act 232, Eff. Oct. 2, 1953

Popular Name: Department of Corrections Act

791.214 Corrections commission; estimation of needs and cost, submission to department of administration.

Sec. 14.

The commission shall prepare for submission to the department of administration the estimated needs and costs to operate the department, and the several penal institutions under the jurisdiction of the department, in accordance with the requirements of the laws of this state.

History: 1953, Act 232, Eff. Oct. 2, 1953

Popular Name: Department of Corrections Act

791.214a Family reunification policy; family advisory board; creation; membership, duties.

Sec. 14a.

(1) The department shall create a family reunification policy. The family reunification policy must include the creation of a permanent family advisory board that consists of not fewer than 11 and not more than 16 members, including the following:

- (a) One individual designated by the director who is an employee of the department.
- (b) The legislative corrections ombudsman.
- (c) Not fewer than 4 or more than 6 individuals who are family members of individuals currently incarcerated in Michigan.
- (d) Not fewer than 1 or more than 3 individuals who are family members of individuals who were formerly incarcerated in Michigan.
- (e) Not fewer than 1 individual who has a parent formerly or currently incarcerated in Michigan.
- (f) Not fewer than 1 or more than 2 individuals who were formerly incarcerated in Michigan.
- (g) One individual who is a social worker who has training and expertise dealing with mental health issues and experience working with formerly or currently incarcerated individuals.
- (h) One individual who is an advocate for or mentor to individuals incarcerated in Michigan.

(2) In addition to regular meetings of the family advisory board, the board shall hold at least 2 public informational meetings each year for family members and the public to provide comments. The public informational meetings for family members and the public to provide comments must not be held in the same region of this state.

(3) Members of the family advisory board shall serve without compensation. However, members of the board may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties as members of the board.

(4) The family advisory board shall do all of the following:

(a) Assist the department by providing feedback regarding policies and procedures that impact family reunification during and after incarceration.

(b) Assist and advise the department regarding the development of programs that support family reunification during and after incarceration.

(c) Enhance communication between the department and families regarding issues that impact a broad range of incarcerated and formerly incarcerated individuals and their families, including, but not limited to, gathering information from individuals in the region and across the state with family members who are or have been incarcerated, including a review of comment cards submitted at individual correctional facilities.

(d) Identify barriers concerning family reunification during and after incarceration.

(e) File an annual report with the chairs of the committees of the senate and house of representatives concerned with the department and criminal justice issues regarding its activities under this section. The report must be filed not later than October 1 of each year.

(5) The department shall provide any staffing necessary for the family advisory board to fulfill its duties under this section.

(6) The family advisory board may, in its discretion, create regional committees or facility-focused family councils to carry out its duties.

(7) The department shall provide information about the family advisory board on its website and in the waiting rooms of correctional facilities, including the board's contact information for obtaining information and assistance with family-related issues.

History: Add. 2020, Act 309, Eff. Mar. 24, 2021

Popular Name: Department of Corrections Act

791.215 "Correctional facility" defined.

Sec. 15.

As used in this act, "correctional facility" means a facility or institution which is maintained and operated by the department.

History: Add. 1980, Act 303, Imd. Eff. Nov. 26, 1980

Popular Name: Department of Corrections Act

791.216 Establishment of correctional facility; determination of need; comprehensive plan; notice of proposal; local advisory board; public hearing required; procedure; public notice of hearings; minutes of hearing; finding and notice of final site selection; option to lease, purchase, or use property.

Sec. 16.

(1) The department shall develop a comprehensive plan for determining the need for establishing various types of correctional facilities, for selecting the location of a correctional facility, and for determining the size of the correctional facility. The comprehensive plan shall not be implemented until the legislature, by concurrent resolution adopted by a majority of those elected and serving in each house by a record roll call vote, approves the comprehensive plan.

(2) The department shall determine the need for a correctional facility based upon the comprehensive plan developed pursuant to subsection (1).

(3) The department shall publish a notice that it proposes to establish a correctional facility in a particular city, village, or township. The notice shall appear in a newspaper of general circulation in the area. In addition, the department shall notify the following officials:

(a) The state senator and the state representative representing the district in which the correctional facility is to be located.

(b) The president of each state supported college or university whose campus is located within 1 mile of the proposed correctional facility.

(c) The chief elected official of the city, village, or township in which the correctional facility is to be located.

(d) Each member of the governing body of the city, village, or township in which the correctional facility is to be located.

- (e) Each member of the county board of commissioners in which the correctional facility is to be located.
- (f) The president of the local school board of the local school district in which the correctional facility is to be located.
- (g) The president of the intermediate school board of the intermediate school district in which the correctional facility is to be located.
- (4) With the notice, the department shall request the chairperson of the county board of commissioners of the county in which the correctional facility is to be located and the person notified pursuant to subsection (3)(c) to create a local advisory board to assist in the identification of potential sites for the correctional facility, to act as a liaison between the department and the local community, and to ensure that the comprehensive plan is being followed by the department. The officials requested to create a local advisory board pursuant to this subsection shall serve as co-chairpersons of that local advisory board.
- (5) After the requirements of subsections (1), (2), (3), and (4) are completed and the department has selected a potential site, the department shall hold a public hearing in the city, village, or township in which the potential site is located. The department shall participate in the hearing and shall make a reasonable effort to respond in writing to concerns and questions raised on the record at the hearing. The hearing shall not be held until the local advisory board created by subsection (4) has organized, or sooner than 30 days after the notice is sent pursuant to subsection (3), whichever occurs first.
- (6) Hearings the department shall conduct under subsection (5) shall be open to the public and shall be held in a place available to the general public. Any person shall be permitted to attend a hearing except as otherwise provided in this section. A person shall not be required as a condition to attendance at a hearing to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attendance. A person shall be permitted to address the hearing under written procedures established by the department. A person shall not be excluded from a hearing except for a breach of the peace actually committed at the meeting.
- (7) The following provisions shall apply with respect to public notice of hearings required under this section:
 - (a) A public notice shall always contain the name of the department, its telephone number, and its address.
 - (b) A public notice shall always be posted at the department's principal office and other locations considered appropriate by the department.
 - (c) The required public notice for a hearing shall be posted in the office of the county clerk of the county in which the facility is to be located and shall be published in a newspaper of general circulation in the county in which the facility is to be located.
 - (d) A public notice stating the date, time, and place of the hearing shall be posted at least 10 days before the hearing.
- (8) Minutes of each hearing required under this section shall be kept showing the date, time, place, members of the local advisory board present, members of the local advisory board absent, and a summary of the discussions at the hearing. The minutes shall be public records open to public inspection and shall be available at the address designated on posted public notices pursuant to subsection (7). Copies of the minutes shall be available from the department to the public at the reasonable estimated cost for printing and copying.
- (9) On the basis of the information developed by the department during the course of the site selection process, and after community concerns have been responded to by the department pursuant to subsection (5), the commission shall make a final site determination for the correctional facility. The commission shall make a finding that the site determination was made in compliance with this section. This finding and notice of final site selection shall be transmitted in writing by the commission to the local advisory board, the officials described in subsection (3), and the chairpersons of the senate and house appropriations committees.
- (10) An option to lease, purchase, or use property may be obtained but shall not be exercised by the state for a correctional facility until the commission has made a final site determination and has transmitted a notice of final site selection as required in subsection (9).

History: Add. 1980, Act 303, Imd. Eff. Nov. 26, 1980

Popular Name: Department of Corrections Act

791.217 Action for noncompliance with site selection process.

Sec. 17.

- (1) A person who resides in the city, village, or township in which the department has determined a need for a correctional facility may bring an action in a court of proper jurisdiction against the department if the department is not abiding by the site selection process provided in section 16.
- (2) An action brought under this section shall not be maintained if it is filed more than 45 days after the

commission sends notification of the final site selected to the officials as required in section 16(9).

History: Add. 1980, Act 303, Imd. Eff. Nov. 26, 1980

Popular Name: Department of Corrections Act

791.218 Relations with city, village, or township in which facility located; duties of advisory committee or advisory board.

Sec. 18.

After a correctional facility is established, the department shall maintain relations with the city, village, or township in which the facility is located. The department shall request the officials notified under section 16(3)(b) to (g) to appoint an advisory committee or continue the advisory board established pursuant to section 16(4) to meet with the department and correctional facility representatives to assist in the identification of community concerns, to assist in the identification of problems, and to recommend methods for resolving those concerns and problems.

History: Add. 1980, Act 303, Imd. Eff. Nov. 26, 1980

Popular Name: Department of Corrections Act

791.219 Applicability of MCL 791.215 to 791.219 to correctional facilities.

Sec. 19.

This section and sections 15 to 18 shall apply to correctional facilities established or proposed after the effective date of the concurrent resolution approving the comprehensive plan and to correctional facilities which are proposed before the effective date of the concurrent resolution approving the comprehensive plan but for which sites have not been selected by the commission as of that date.

History: Add. 1980, Act 303, Imd. Eff. Nov. 26, 1980

Popular Name: Department of Corrections Act

791.220-791.220c Repealed. 1995, Act 28, Imd. Eff. May 10, 1995.

Compiler's Notes: The repealed sections pertained to definitions, corrections regions, selection and recommendation of sites, placement procedures, and rules.

Popular Name: Department of Corrections Act

791.220d Repealed. 1987, Act 176, Imd. Eff. Nov. 19, 1987.

Compiler's Notes: The repealed section pertained to demolition of Michigan reformatory in Ionia.

Popular Name: Department of Corrections Act

791.220e Scott correctional facility; western Wayne correctional facility; capacity limits; increase.

Sec. 20e.

(1) Except as provided in subsection (2), not more than 880 prisoners shall be housed at the Scott correctional facility and not more than 925 prisoners shall be housed at the western Wayne correctional facility.

(2) If a new housing unit is constructed within the security perimeter of either facility listed in subsection (1), the capacity limits listed in subsection (1) for that facility are increased by the designated capacity of the new housing unit.

History: Add. 1985, Act 62, Imd. Eff. June 14, 1985 ;-- Am. 1991, Act 96, Imd. Eff. Aug. 1, 1991 ;-- Am. 1995, Act 20, Imd. Eff. Apr. 12, 1995 ;-- Am. 2002, Act 670, Eff. Mar. 1, 2003

Popular Name: Department of Corrections Act

791.220f Construction of correctional facility; requirements; definition.

Sec. 20f.

(1) A correctional facility constructed after the effective date of this section shall be constructed in compliance with at least 1 of the following requirements:

(a) A distance of not less than 300 feet exists between each adjacent residential dwelling and any part of the correctional facility or grounds that is within the security perimeter.

(b) A buffer zone is constructed between the correctional facility and all adjacent residential dwellings. The buffer zone shall be designed to block sight and to block or reduce sound, and may consist of an earth berm or trees or other plants, or materials that would have a substantially similar effect. A fence does not meet the requirements of this subdivision.

(2) As used in this section, "correctional facility" means any facility that houses prisoners under the jurisdiction of the department, but does not include a halfway house, community corrections center, or community residential home.

History: Add. 1989, Act 107, Imd. Eff. June 23, 1989

Popular Name: Department of Corrections Act

791.220g Youth correctional facility.

Sec. 20g.

(1) The department may establish a youth correctional facility which shall house only prisoners committed to the jurisdiction of the department who are 19 years of age or less. If the department establishes or contracts with a private vendor for the operation of a youth correctional facility, following intake processing in a department operated facility, the department shall house all male prisoners who are 16 years of age or less at the youth correctional facility unless the department determines that the prisoner should be housed at a different facility for reasons of security, safety, or because of the prisoner's specialized physical or mental health care needs.

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

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

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

(5) The department may establish and operate the youth correctional facility or may contract on behalf of the

state with a private vendor for the construction or operation, or both, of the youth correctional facility. If the department contracts with a private vendor to construct, rehabilitate, develop, renovate, or operate any existing or anticipated facility pursuant to this section, the department shall require a written certification from the private vendor regarding all of the following:

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

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

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

(6) If the department contracts with a private vendor for the operation of the youth correctional facility, the department shall require by contract that the personnel employed by the private vendor in the operation of the facility be certified as correctional officers to the same extent as would be required if those personnel were employed in a correctional facility operated by the department. The department also shall require by contract that the private vendor meet requirements specified by the department regarding security, protection of the public, inspections by the department, programming, liability and insurance, conditions of confinement, educational services required under subsection (11), and any other issues the department considers necessary for the operation of the youth correctional facility. The department shall also require that the contract include provisions to protect the public's interest if the private vendor defaults on the contract. Before finalizing a contract with a private vendor for the construction or operation of the youth correctional facility, the department shall submit the proposed contract to the standing committees of the senate and the house of representatives having jurisdiction of corrections issues, the corrections subcommittees of the standing committees on appropriations of the senate and the house of representatives, and, with regard to proposed construction contracts, the joint committee on capital outlay. A contract between the department and a private vendor for the construction or operation of the youth correctional facility shall be contingent upon appropriation of the required funding. If the department contracts with a private vendor under this section, the selection of that private vendor shall be by open, competitive bid.

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

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

(a) Calculate inmate release and parole eligibility dates.

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

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

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

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

(11) Regardless of whether the department itself operates the youth correctional facility or contracts with a private vendor to operate the youth correctional facility, all of the following educational services shall be provided for juvenile prisoners housed at the facility who have not earned a high school diploma or received a general education certificate (GED):

(a) The department or private vendor shall require that a prisoner whose academic achievement level is not sufficient to allow the prisoner to participate effectively in a program leading to the attainment of a GED certificate participate in classes that will prepare him or her to participate effectively in the GED program, and shall provide those classes in the facility.

(b) The department or private vendor shall require that a prisoner who successfully completes classes described in subdivision (a), or whose academic achievement level is otherwise sufficient, participate in classes leading to the attainment of a GED certificate, and shall provide those classes.

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

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

History: Add. 1996, Act 164, Eff. Mar. 31, 1997 ;-- Am. 1998, Act 512, Imd. Eff. Jan. 8, 1999 ;-- Am. 2000, Act 211, Imd. Eff. June 27,

791.220h Order of restitution; deductions and payments.

Sec. 20h.

(1) If a prisoner is ordered to pay restitution to the victim of a crime and the department receives a copy of the restitution order from the court, the department shall deduct 50% of the funds received by the prisoner in a month over \$50.00 for payment of restitution. The department shall promptly forward the restitution amount to the crime victim as provided in the order of restitution when the amount exceeds \$100.00, or the entire amount if the prisoner is paroled, transferred to community programs, or is discharged on the maximum sentence. The department shall notify the prisoner in writing of all deductions and payments made under this section. The requirements of this subsection remain in effect until all of the restitution has been paid.

(2) Any funds owed by the Michigan department of corrections or to be paid on behalf of one or more of its employees to satisfy a judgment or settlement to a person for a claim that arose while the person was incarcerated, shall be paid to satisfy any order(s) of restitution imposed on the claimant that the department has a record of. The payment shall be made as described in subsection (1). The obligation to pay the funds, described in this section, shall not be compromised. As used in this section, "fund" or "funds" means that portion of a settlement or judgment that remains to be paid to a claimant after statutory and contractual court costs, attorney fees, and expenses of litigation, subject to the court's approval, have been deducted.

(3) The department shall not enter into any agreement with a prisoner that modifies the requirements of subsection (1). Any agreement in violation of this subsection is void.

History: Add. 1996, Act 559, Eff. June 1, 1997

Popular Name: Department of Corrections Act

791.220i Correctional facility described in MCL 791.220g; use; interlocal agreement; contract for housing, custody, and care of detainees or inmates from other agencies; requirements; performance of duties by personnel; oversight; civil liability; definitions.

Sec. 20i.

(1) If the correctional facility described in section 20g is not utilized by the department for housing inmates or detainees under the terms of section 20g, the private contractor that operates that correctional facility may utilize the facility for housing, custody, and care of detainees or inmates from any of the following agencies, either by directly contracting with those local, state, or federal agencies or by having 1 or more local, state, or federal agencies enter into an interlocal agreement with the township or county in which the facility is located, or the county sheriff for the county in which the facility is located, who in turn may contract with the private contractor for services to be provided under the terms of the interlocal agreement, subject to the requirements of this section:

(a) Other local, state, or federal agencies.

(b) The department if the detainees or inmates are older than 19 years of age and under the jurisdiction of the department.

(2) If all contractual factors regarding potential inmates or detainees are equal, the private contractor shall give preference to the admission of inmates or detainees sent from agencies within this state, including the department.

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

(a) The private contractor that operates the facility shall do all of the following:

(i) Obtain accreditation of the facility by the American Correctional Association within 24 months after the private contractor commences operations at the facility and maintain that accreditation throughout the term of any contract for the use of the facility.

(ii) Operate the facility in compliance with the applicable standards of the American Correctional Association.

(b) The personnel employed by the private contractor in the operation of the facility shall meet the employment and training requirements set forth in the applicable standards of the American Correctional Association, and also shall meet any higher training and employment standards that may be mandated under a contract between the

private contractor and a local, state, or federal agency that sends inmates or detainees to the facility.

(c) Any serious incident that occurs at the facility shall be reported immediately to the sheriff of the county and the state police.

(4) An inmate or detainee housed at the facility shall not participate in work release, a work camp, or another similar program or activity occurring outside the secure perimeter of the facility without the authorization of the initiating jurisdiction.

(5) The facility shall allow the presence of on-site monitors from any local, state, or federal agency that sends inmates or detainees to the facility, for the purpose of monitoring the conditions of confinement of those inmates or detainees. Whenever the private contractor submits a written report to a local, state, or federal agency that sends inmates or detainees to the facility, the private contractor shall send copies of the written report to the township supervisor, the board of county commissioners, the county sheriff, and the department.

(6) Personnel employed at the facility by the private contractor who have met the employment and training requirements set forth in the applicable standards of the American Correctional Association have full authority to perform their duties and responsibilities under law, including, but not limited to, exercising the use of force in the same manner and to the same extent as would be authorized if those personnel were employed in a correctional facility operated by the department.

(7) A contract with a local, state, or federal agency that sends inmates or detainees to the facility shall not require, authorize, or imply a delegation of the authority or responsibility to the private contractor to do any of the following:

(a) Develop or implement procedures for calculating inmate release and parole eligibility dates or recommending the granting or denying of parole, although the private contractor may submit written reports that have been prepared in the ordinary course of business.

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

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

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

(10) As used in this section:

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

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

History: Add. 2006, Act 351, Imd. Eff. Sept. 18, 2006 ;-- Am. 2012, Act 599, Eff. Mar. 28, 2013 ;-- Am. 2015, Act 49, Imd. Eff. June 9, 2015

Popular Name: Department of Corrections Act

791.220j Contract resulting in annual savings; employment consideration.

Sec. 20j.

(1) This act does not prohibit the department from contracting with an operator of a privately owned correctional facility to house and manage inmates under the jurisdiction of the department if the contract will result in an annual cost savings of at least 10% to the state. The department shall annually document and report the savings to the legislature.

(2) If the department contracts with a privately owned correctional facility, the contractor shall interview and consider for employment employees or former employees of the department who lose or reasonably expect to lose their position of employment with the department as a result of prison closures. The contractor shall also give consideration to the hiring of unemployed national guard and reserve officers and military personnel who are returning to this state following active deployment. This section does not create a property interest in employment.

History: Add. 2012, Act 599, Eff. Mar. 28, 2013

Popular Name: Department of Corrections Act