

# HOUSE BILL No. 4112

January 22, 2009, Introduced by Rep. Lori and referred to the Committee on Judiciary.

A bill to amend 1953 PA 232, entitled "Corrections code of 1953," by amending sections 35, 37, and 67 (MCL 791.235, 791.237, and 791.267), section 35 as amended by 1998 PA 315, section 37 as amended by 1994 PA 217, and section 67 as amended by 1996 PA 565, and by adding section 34b.

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

1           **SEC. 34B. (1) THE DEPARTMENT, BY CONTRACT OR OTHERWISE, SHALL**  
2 **ASSIST PRISONERS WITH REENTRY INTO THE COMMUNITY, INCLUDING, BUT**  
3 **NOT LIMITED TO, BOTH OF THE FOLLOWING:**

4           **(A) THE DEPARTMENT SHALL ASSIST PRISONERS IN OBTAINING THE**  
5 **IDENTIFICATION DOCUMENTS DESCRIBED IN THIS SECTION.**

1 (B) SUBJECT TO THE DEPARTMENT'S SECURITY NEEDS, THE DEPARTMENT  
2 SHALL REASONABLY ALLOW PRISONERS TO OBTAIN THE FOLLOWING  
3 IDENTIFICATION DOCUMENTS BEFORE THOSE PRISONERS ARE RELEASED ON  
4 PAROLE OR DISCHARGED UPON COMPLETION OF THEIR MAXIMUM SENTENCES:

5 (i) ANY OF THE IDENTIFICATION DOCUMENTS THAT, IN COMBINATION  
6 WITH THE PRISONER IDENTIFICATION CARD ISSUED UNDER SECTION 37(4),  
7 WOULD SATISFY THE APPLICATION REQUIREMENTS FOR OBTAINING AN  
8 OPERATOR'S LICENSE OR STATE PERSONAL IDENTIFICATION CARD AS  
9 ESTABLISHED BY THE SECRETARY OF STATE UNDER SECTION 307 OF THE  
10 MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.307, OR SECTION 1 OF  
11 1972 PA 222, MCL 28.291.

12 (ii) A SOCIAL SECURITY CARD.

13 (2) A PRISONER'S ATTEMPT OR FAILURE TO ATTEMPT TO OBTAIN THE  
14 DOCUMENTS IDENTIFIED IN SUBSECTION (1) (B) IS A FACTOR THAT IS TO BE  
15 CONSIDERED AS PART OF THE PRISONER'S PAROLE ELIGIBILITY REPORT, AS  
16 PROVIDED IN SECTION 35(7) (E) .

17 (3) THIS SECTION APPLIES TO ALL PRISONERS SERVING A SENTENCE  
18 UNDER THE JURISDICTION OF THE DEPARTMENT AFTER THE EFFECTIVE DATE  
19 OF THIS SECTION.

20 (4) THE DEPARTMENT SHALL PROVIDE TO EACH PRISONER A COPY OF  
21 THE FORM DESCRIBED IN SECTION 14 OF CHAPTER XI OF THE CODE OF  
22 CRIMINAL PROCEDURE, 1927 PA 175, MCL 771.14, LISTING THE PERSONAL  
23 IDENTIFICATION DOCUMENTS REFERENCED IN SUBSECTION (1) . FOR A  
24 PRISONER WHO BEGINS SERVING A SENTENCE UNDER THE JURISDICTION OF  
25 THE DEPARTMENT AFTER THE EFFECTIVE DATE OF THIS SECTION, THE  
26 DEPARTMENT SHALL PROVIDE THE FORM NOT LATER THAN 10 DAYS AFTER THE  
27 PRISONER ARRIVES AT A RECEPTION CENTER UNDER SECTION 67(1) . FOR ANY

1 PRISONER WHO IS UNDER THE JURISDICTION OF THE DEPARTMENT ON THE  
2 EFFECTIVE DATE OF THIS SECTION, THE DEPARTMENT SHALL PROVIDE THE  
3 FORM NOT LATER THAN 30 DAYS AFTER THE EFFECTIVE DATE OF THIS  
4 SECTION.

5 (5) THE DEPARTMENT SHALL ALLOW THE SECRETARY OF STATE TO HAVE  
6 ELECTRONIC ACCESS TO PRISONER BIOGRAPHY INFORMATION FOR THE PURPOSE  
7 OF VERIFYING THE IDENTITY OF PRISONERS WHO APPLY FOR DRIVER  
8 LICENSES OR STATE PERSONAL IDENTIFICATION CARDS.

9 (6) THE REENTRY SUCCESS FUND IS CREATED WITHIN THE STATE  
10 TREASURY. THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS  
11 FROM ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER  
12 SHALL DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL  
13 CREDIT TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.  
14 MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL REMAIN IN  
15 THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND. THE DEPARTMENT OF  
16 CORRECTIONS SHALL EXPEND MONEY FROM THE REENTRY SUCCESS FUND, UPON  
17 APPROPRIATION, ONLY FOR THE EXPENSES OF PERFORMING THE ACTIVITIES  
18 REQUIRED BY THIS SECTION.

19 Sec. 35. (1) The release of a prisoner on parole shall be  
20 granted solely upon the initiative of the parole board. The parole  
21 board may grant a parole without interviewing the prisoner.  
22 However, beginning ~~on the date on which the administrative rules~~  
23 ~~prescribing parole guidelines pursuant to section 33e(5) take~~  
24 ~~effect~~ JANUARY 26, 1996, the parole board may grant a parole  
25 without interviewing the prisoner only if, after evaluating the  
26 prisoner according to the parole guidelines, the parole board  
27 determines that the prisoner has a high probability of being

1 paroled and the parole board therefore intends to parole the  
2 prisoner. Except as provided in subsection (2), a prisoner shall  
3 not be denied parole without an interview before 1 member of the  
4 parole board. The interview shall be conducted at least 1 month  
5 before the expiration of the prisoner's minimum sentence less  
6 applicable good time and disciplinary credits for a prisoner  
7 eligible for good time and disciplinary credits, or at least 1  
8 month before the expiration of the prisoner's minimum sentence for  
9 a prisoner subject to disciplinary time. The parole board shall  
10 consider any statement made to the parole board by a crime victim  
11 under the **WILLIAM VAN REGENMORTER** crime victim's rights act, 1985  
12 PA 87, MCL 780.751 to 780.834, or under any other provision of law.  
13 The parole board shall not consider any of the following factors in  
14 making a parole determination:

15 (a) A juvenile record that a court has ordered the department  
16 to expunge.

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

23 (2) Beginning ~~on the date on which the administrative rules~~  
24 ~~prescribing the parole guidelines take effect pursuant to section~~  
25 ~~33e(5)~~ **JANUARY 26, 1996**, if, after evaluating a prisoner according  
26 to the parole guidelines, the parole board determines that the  
27 prisoner has a low probability of being paroled and the parole

1 board therefore does not intend to parole the prisoner, the parole  
2 board ~~shall~~**IS** not ~~be~~ required to interview the prisoner before  
3 denying parole to the prisoner.

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

6 (a) A prisoner's marital history.

7 (b) Prior arrests not resulting in conviction or adjudication  
8 of delinquency.

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

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

25 (6) A prisoner may waive the right to an interview by 1 member  
26 of the parole board. The waiver of the right to be interviewed  
27 shall be given not more than 30 days after the notice of intent to

1 conduct an interview is issued and shall be made in writing. During  
2 the interview held pursuant to a notice of intent to conduct an  
3 interview, the prisoner may be represented by an individual of his  
4 or her choice. The representative shall not be another prisoner or  
5 an attorney. A prisoner is not entitled to appointed counsel at  
6 public expense. The prisoner or representative may present relevant  
7 evidence in support of release. This subsection does not apply  
8 until April 1, 1983.

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

19 (a) A statement of all major misconduct charges of which the  
20 prisoner was found guilty and the punishment served for the  
21 misconduct.

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

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

25 (d) Whether the prisoner fully cooperated with the state by  
26 providing complete financial information as required under section  
27 3a of the state correctional facility reimbursement act, 1935 PA

1 253, MCL 800.403a.

2 (E) WHETHER THE PRISONER ATTEMPTED TO OBTAIN IDENTIFICATION  
3 DOCUMENTS UNDER SECTION 34B, IF APPLICABLE.

4 (F) ~~(e)~~—For a prisoner subject to disciplinary time, a  
5 statement of all disciplinary time submitted for the parole board's  
6 consideration pursuant to section 34 of 1893 PA 118, MCL 800.34.

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

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

14 (10) The parole board may grant a medical parole for a  
15 prisoner determined to be physically or mentally incapacitated. A  
16 decision to grant a medical parole shall be initiated upon the  
17 recommendation of the bureau of health care services and shall be  
18 reached only after a review of the medical, institutional, and  
19 criminal records of the prisoner.

20 (11) The department shall submit a petition to the appropriate  
21 court under section 434 of the mental health code, 1974 PA 258, MCL  
22 330.1434, for any prisoner being paroled or being released after  
23 serving his or her maximum sentence whom the department considers  
24 to be a person requiring treatment. The parole board shall require  
25 mental health treatment as a special condition of parole for any  
26 parolee whom the department has determined to be a person requiring  
27 treatment whether or not the petition filed for that prisoner is

1 granted by the court. As used in this subsection, "person requiring  
2 treatment" means that term as defined in section 401 of the mental  
3 health code, 1974 PA 258, MCL 330.1401.

4 (12) When the parole board makes a final determination not to  
5 release a prisoner, the prisoner shall be provided with a written  
6 explanation of the reason for denial and, if appropriate, specific  
7 recommendations for corrective action the prisoner may take to  
8 facilitate release.

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

12 Sec. 37. (1) When a prisoner is released upon parole, the  
13 department shall provide the prisoner with clothing and a  
14 nontransferable ticket to the place in which the paroled prisoner  
15 is to reside. At the discretion of the deputy director in charge of  
16 the ~~bureau of field services~~ **OPERATIONS ADMINISTRATION**, the paroled  
17 prisoner may be advanced the expense of the transportation to the  
18 place of residence and a sum of money necessary for reasonable  
19 maintenance and subsistence for a 2-week period, as determined by  
20 the deputy director. A sum of money given under this section shall  
21 be repaid to the state by the paroled prisoner within 180 days  
22 after the money is received by the paroled prisoner.

23 (2) If a prisoner who is discharged without being paroled has  
24 less than \$75.00 in his or her immediate possession, has no visible  
25 means of support, and has conserved personal funds in a reasonable  
26 manner, the department shall furnish to that prisoner **ALL OF** the  
27 following:



1 (a) Clothing that is appropriate for the season.

2 (b) A sum of \$75.00 including that amount already in the  
3 prisoner's possession.

4 (c) Transportation to a place in this state where the prisoner  
5 will reside or work or to the place where the prisoner was  
6 convicted or sentenced.

7 (3) When providing for transportation, the department shall **DO**  
8 **ALL OF THE FOLLOWING:**

9 (a) Use the most economical available public transportation.

10 (b) Arrange for and purchase the prisoner's transportation  
11 ticket.

12 (c) Assume responsibility for delivering that prisoner to the  
13 site of departure and confirming the prisoner's departure from the  
14 site.

15 (4) **THE DEPARTMENT SHALL PROVIDE A PRISONER IDENTIFICATION**  
16 **CARD TO EACH PRISONER WHEN HE OR SHE IS RELEASED ON PAROLE OR IS**  
17 **RELEASED UPON COMPLETION OF HIS OR HER MAXIMUM SENTENCE. THE**  
18 **IDENTIFICATION CARD SHALL INCLUDE ALL OF THE FOLLOWING BASED UPON**  
19 **ALL AVAILABLE INFORMATION:**

20 (A) **THE PRISONER'S PHOTOGRAPH, TAKEN NOT EARLIER THAN 6 MONTHS**  
21 **BEFORE THE PRISONER'S DATE OF RELEASE.**

22 (B) **THE PRISONER'S NAME AS IDENTIFIED ON THE PRISONER'S BIRTH**  
23 **CERTIFICATE OR ON ANY 1 OF THE OTHER IDENTIFICATION DOCUMENTS**  
24 **SPECIFIED BY THE SECRETARY OF STATE AS BEING NECESSARY TO OBTAIN AN**  
25 **OPERATOR'S LICENSE OR STATE PERSONAL IDENTIFICATION CARD, IF THOSE**  
26 **DOCUMENTS ARE AVAILABLE; OR THE PRISONER'S NAME LISTED ON HIS OR**  
27 **HER COMMITMENT PAPERS.**

1 (C) THE PRISONER'S PLACE AND DATE OF BIRTH.

2 (D) THE DATE ON WHICH THE PRISONER BEGAN HIS OR HER TERM OF  
3 INCARCERATION AT A STATE CORRECTIONAL FACILITY.

4 (E) A STATEMENT AS TO WHETHER THE PRISONER WAS PLACED ON  
5 PAROLE OR DISCHARGED UPON COMPLETION OF HIS OR HER SENTENCE.

6 (5) ~~(4)~~—The cost of implementing this section shall be paid  
7 out of the general fund of the state.

8 Sec. 67. (1) Quarters for temporary confinement apart from  
9 those of regular inmates shall be provided for convicted prisoners  
10 upon commitment at each of the state correctional facilities, which  
11 the director shall designate as a reception center. Within 60 days  
12 after the arrival of a convicted prisoner at ~~such~~ a state  
13 correctional facility, the classification committee shall make and  
14 complete a comprehensive study of the prisoner, including physical  
15 and psychiatric examinations, to ensure that the prisoner is  
16 confined in the state correctional facility suited to the type of  
17 rehabilitation required in his or her case. The warden of the state  
18 correctional facility shall deliver a report of the study of the  
19 classification committee to the deputy director of the correctional  
20 facilities administration, who shall, within 5 days after receipt  
21 of the report, execute an order to confine the prisoner in the  
22 state correctional facility determined as suitable by the deputy  
23 director.

24 (2) Immediately upon arrival at a reception center designated  
25 pursuant to subsection (1), each incoming prisoner shall undergo a  
26 test for HIV or an antibody to HIV. This subsection does not apply  
27 if an incoming prisoner has been tested for HIV or an antibody to

1 HIV under section 5129 of the public health code, ~~Act No. 368 of~~  
2 ~~the Public Acts of 1978, being section 333.5129 of the Michigan~~  
3 ~~Compiled Laws 1978 PA 368, MCL 333.5129~~, within the 3 months  
4 immediately preceding the date of the prisoner's arrival at the  
5 reception center, as indicated by the record transferred to the  
6 department by the court under that section.

7 (3) If a prisoner receives a positive test result and is  
8 subsequently subject to discipline by the department for sexual  
9 misconduct that could transmit HIV, illegal intravenous use of  
10 controlled substances, or assaultive or predatory behavior that  
11 could transmit HIV, the department shall house that prisoner in  
12 administrative segregation, an inpatient health care unit, or a  
13 unit separate from the general prisoner population, as determined  
14 by the department.

15 (4) The department shall report each positive test result to  
16 the department of community health, in compliance with section 5114  
17 of ~~Act No. 368 of the Public Acts of 1978, being section 333.5114~~  
18 ~~of the Michigan Compiled Laws~~ **THE PUBLIC HEALTH CODE, 1978 PA 368,**  
19 **MCL 333.5114.**

20 (5) If an employee of the department sustains a percutaneous,  
21 mucous membrane, or open wound exposure to the blood or body fluid  
22 of a prisoner, the employee may, and the department shall, proceed  
23 under section 67b.

24 (6) Upon the request of an employee of the department, the  
25 department shall provide or arrange for a test for HIV or an  
26 antibody to HIV for that employee, free of charge.

27 (7) Upon the request of an employee of the department, the

1 department shall provide to that employee the equipment necessary  
2 to implement universal precautions to prevent transmission of HIV  
3 infection.

4 (8) A prisoner who receives a positive HIV test result under  
5 subsection (5) shall not work in a health facility operated by the  
6 department.

7 (9) The department shall conduct a seroprevalence study of the  
8 prisoners in all state correctional facilities to determine the  
9 percentage of prisoners who are HIV infected.

10 (10) The results of a test for HIV or an antibody to HIV  
11 conducted under this section shall be disclosed by the department  
12 pursuant to section 67b.

13 (11) The deputy director of the correctional facilities  
14 administration shall take steps to ensure that all prisoners who  
15 receive HIV testing receive counseling regarding AIDS including, at  
16 a minimum, treatment, transmission, and protective measures.

17 (12) The department, in conjunction with the department of  
18 community health, shall develop and implement a comprehensive AIDS  
19 education program designed specifically for correctional  
20 environments. The program shall be conducted by the bureau within  
21 the department responsible for health care, for staff and for  
22 prisoners at each state correctional facility.

23 ~~—— (13) By March 30, 1991, the department shall submit a report~~  
24 ~~regarding the testing component, managerial aspects, and~~  
25 ~~effectiveness of subsections (2) to (12) to the senate and house~~  
26 ~~committees with jurisdiction over matters pertaining to~~  
27 ~~corrections, and to the senate and house committees with~~

1 ~~jurisdiction over matters pertaining to public health.~~

2 (13) ~~(14)~~ As used in this section:

3 (a) "AIDS" means acquired immunodeficiency syndrome.

4 (b) "HIV" means human immunodeficiency virus.

5 (c) "Positive test result" means a double positive enzyme-  
6 linked immunosorbent assay test, combined with a positive western  
7 blot assay test, or a positive test under an HIV test that is  
8 considered reliable by the federal centers for disease control and  
9 is approved by the department of community health.

10 Enacting section 1. This amendatory act does not take effect  
11 unless all of the following bills of the 95th Legislature are  
12 enacted into law:

13 (a) Senate Bill No. \_\_\_\_ or House Bill No. 4113 (request no.  
14 00337'09 a).

15 (b) Senate Bill No. \_\_\_\_ or House Bill No. 4114 (request no.  
16 00337'09 b).

17 (c) Senate Bill No. \_\_\_\_ or House Bill No. 4115 (request no.  
18 00337'09 c).