

SENATE BILL No. 1110

March 18, 2004, Introduced by Senator SWITALSKI and referred to the Committee on
Judiciary.

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending section 35 (MCL 791.235), as amended by 1998 PA 315.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 35. (1) The release of a prisoner on parole shall be
2 granted solely upon the initiative of the parole board. The
3 parole board may grant a parole without interviewing the
4 prisoner. However, beginning ~~on the date on which the~~
5 ~~administrative rules prescribing parole guidelines pursuant to~~
6 ~~section 33e(5) take effect~~ **January 26, 1996**, the parole board
7 may grant a parole without interviewing the prisoner only if,
8 after evaluating the prisoner according to the parole guidelines,
9 the parole board determines that the prisoner has a high
10 probability of being paroled and the parole board therefore
11 intends to parole the prisoner. Except as provided in

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

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

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

21 (2) Beginning ~~on the date on which the administrative rules~~
22 ~~prescribing the parole guidelines take effect pursuant to~~
23 ~~section 33e(5) January 26, 1996~~, if, after evaluating a prisoner
24 according to the parole guidelines, the parole board determines
25 that the prisoner has a low probability of being paroled and the
26 parole board therefore does not intend to parole the prisoner,
27 the parole board ~~shall~~ **is** not ~~be~~ required to interview the

1 prisoner before denying parole to the prisoner.

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

4 (a) A prisoner's marital history.

5 (b) Prior arrests not resulting in conviction or adjudication
6 of delinquency.

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

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

23 (6) A prisoner may waive the right to an interview by 1
24 member of the parole board. The waiver of the right to be
25 interviewed shall be given not more than 30 days after the notice
26 of intent to conduct an interview is issued and shall be made in
27 writing. During the interview held pursuant to a notice of

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

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

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

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

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

24 (d) Whether the prisoner fully cooperated with the state by
25 providing complete financial information as required under
26 section 3a of the state correctional facility reimbursement act,
27 1935 PA 253, MCL 800.403a.

1 (e) For a prisoner subject to disciplinary time, a statement
2 of all disciplinary time submitted for the parole board's
3 consideration pursuant to section 34 of 1893 PA 118, MCL 800.34.

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

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

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

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

1 PA 258, MCL 330.1401.

2 (12) If the parole board grants parole to a prisoner, the
3 prisoner shall be released on parole not later than 60 days after
4 the date of the decision to grant parole.

5 (13) ~~—(12)—~~ When the parole board makes a final determination
6 not to release a prisoner, the prisoner shall be provided with a
7 written explanation of the reason for denial and, if appropriate,
8 specific recommendations for corrective action the prisoner may
9 take to facilitate release.

10 (14) ~~—(13)—~~ This section does not apply to the placement on
11 parole of a person in conjunction with special alternative
12 incarceration under section 34a(7).