

HOUSE BILL No. 5129

September 7, 2005, Introduced by Rep. Cushingberry 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 1998 PA 320, section 34 as amended by 2004 PA 218, sections 34a, 35, and 65a as amended by 1998 PA 315, section 36 as amended by 2003 PA 75, section 51 as amended by 1998 PA 269, and section 65 as amended by 1998 PA 512; 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 house only prisoners committed to

1 the jurisdiction of the department who are 19 years of age or less.
2 If the department establishes or contracts with a private vendor
3 for the operation of a youth correctional facility, following
4 intake processing in a department operated facility, the department
5 shall house all male prisoners who are 16 years of age or less at
6 the youth correctional facility unless the department determines
7 that the prisoner should be housed at a different facility for
8 reasons of security, safety, or because of the prisoner's
9 specialized physical or mental health care needs.

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

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

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

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

1 operate any existing or anticipated facility pursuant to this
2 section, the department shall require a written certification from
3 the private vendor regarding all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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 certificate participate in classes that
21 will prepare him or her to participate effectively in the GED
22 program, and shall provide those classes in the facility.

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

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

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

18 Sec. 33. (1) The grant of a parole is subject to all of the
19 following:

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

25 (b) Except as provided in section 34a, a parole shall not be
26 granted to a prisoner ~~other than a prisoner subject to~~
27 ~~disciplinary time~~ until the prisoner has served the minimum term

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

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

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

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

25 (E) ~~—(f)—~~ A prisoner whose minimum term of imprisonment is 2
26 years or more shall not be released on parole unless he or she has
27 either earned a high school diploma or earned its equivalent in the

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

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

25 (3) Pursuant to the administrative procedures act of 1969,
26 1969 PA 306, MCL 24.201 to 24.328, the parole board may promulgate
27 rules not inconsistent with this act with respect to conditions to

1 be imposed upon prisoners paroled under this act.

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

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

17 (2) ~~(3)~~ If a prisoner ~~other than a prisoner subject to~~
18 ~~disciplinary time~~ is sentenced for consecutive terms, whether
19 received at the same time or at any time during the life of the
20 original sentence, the parole board has jurisdiction over the
21 prisoner for purposes of parole when the prisoner has served the
22 total time of the added minimum terms, less the good time and
23 disciplinary credits allowed by statute. The maximum terms of the
24 sentences shall be added to compute the new maximum term under this
25 subsection, and discharge shall be issued only after the total of
26 the maximum sentences has been served less good time and
27 disciplinary credits, unless the prisoner is paroled and discharged

1 upon satisfactory completion of the parole.

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

12 (3) ~~—(5)—~~ If a prisoner ~~other than a prisoner subject to~~
13 ~~disciplinary time~~ has 1 or more consecutive terms remaining to
14 serve in addition to the term he or she is serving, the parole
15 board may terminate the sentence the prisoner is presently serving
16 at any time after the minimum term of the sentence has been served.

17 (4) ~~—(6)—~~ A prisoner under sentence for life, other than a
18 prisoner sentenced for life for murder in the first degree or
19 sentenced for life for a violation of section 16(5) or 18(7) or
20 chapter XXXVIII of the Michigan penal code, 1931 PA 328, MCL 750.16,
21 750.18, and 750.200 to 750.212a, or section 17764(7) of the public
22 health code, 1978 PA 368, MCL 333.17764, who has served 10 calendar
23 years of the sentence in the case of a prisoner sentenced for a
24 crime committed before October 1, 1992, or, except as provided in
25 subsection (10), who has served 20 calendar years of the sentence
26 in the case of a prisoner sentenced to imprisonment for life for
27 violating or conspiring to violate section 7401(2)(a)(i) of the

1 public health code, 1978 PA 368, MCL 333.7401, who has another
2 conviction for a serious crime, or, except as provided in
3 subsection ~~—(10)—~~ (8), who has served 17-1/2 calendar years of the
4 sentence in the case of a prisoner sentenced to imprisonment for
5 life for violating or conspiring to violate section 7401(2)(a)(i) of
6 the public health code, 1978 PA 368, MCL 333.7401, who does not
7 have another conviction for a serious crime, or who has served 15
8 calendar years of the sentence in the case of a prisoner sentenced
9 for a crime committed on or after October 1, 1992, is subject to
10 the jurisdiction of the parole board and may be released on parole
11 by the parole board, subject to the following conditions:

12 (a) At the conclusion of 10 calendar years of the prisoner's
13 sentence and thereafter as determined by the parole board until the
14 prisoner is paroled, discharged, or deceased, and in accordance
15 with the procedures described in subsection ~~—(7)—~~ (5), 1 member of
16 the parole board shall interview the prisoner. The interview
17 schedule prescribed in this subdivision applies to all prisoners to
18 whom this subsection is applicable, regardless of the date on which
19 they were sentenced.

20 (b) In addition to the interview schedule prescribed in
21 subdivision (a), the parole board shall review the prisoner's file
22 at the conclusion of 15 calendar years of the prisoner's sentence
23 and every 5 years thereafter until the prisoner is paroled,
24 discharged, or deceased. A prisoner whose file is to be reviewed
25 under this subdivision shall be notified of the upcoming file
26 review at least 30 days before the file review takes place and
27 shall be allowed to submit written statements or documentary

1 evidence for the parole board's consideration in conducting the
2 file review.

3 (c) A decision to grant or deny parole to a prisoner so
4 sentenced shall not be made until after a public hearing held in
5 the manner prescribed for pardons and commutations in sections 44
6 and 45. Notice of the public hearing shall be given to the
7 sentencing judge, or the judge's successor in office, and parole
8 shall not be granted if the sentencing judge, or the judge's
9 successor in office, files written objections to the granting of
10 the parole within 30 days of receipt of the notice of hearing. The
11 written objections shall be made part of the prisoner's file.

12 (d) A parole granted under this subsection shall be for a
13 period of not less than 4 years and subject to the usual rules
14 pertaining to paroles granted by the parole board. A parole ordered
15 under this subsection is not valid until the transcript of the
16 record is filed with the attorney general whose certification of
17 receipt of the transcript shall be returnable to the office of the
18 parole board within 5 days. Except for medical records protected
19 under section 2157 of the revised judicature act of 1961, 1961 PA
20 236, MCL 600.2157, the file of a prisoner granted a parole under
21 this subsection is a public record.

22 (e) A parole shall not be granted under this subsection in the
23 case of a prisoner who is otherwise prohibited by law from parole
24 consideration. In such cases the interview procedures in section 44
25 shall be followed.

26 (5) ~~-(7)-~~ An interview conducted under subsection ~~-(6)-(a)-~~
27 (4)(A) is subject to both of the following requirements:

1 (a) The prisoner shall be given written notice, not less than
2 30 days before the interview date, stating that the interview will
3 be conducted.

4 (b) The prisoner may be represented at the interview by an
5 individual of his or her choice. The representative shall not be
6 another prisoner. A prisoner is not entitled to appointed counsel
7 at public expense. The prisoner or representative may present
8 relevant evidence in favor of holding a public hearing as described
9 in subsection ~~-(6)(b)-~~ **(4)(B)**.

10 **(6)** ~~-(8)-~~ In determining whether a prisoner convicted of
11 violating or conspiring to violate section 7401(2)(a)(i) of the
12 public health code, 1978 PA 368, MCL 333.7401, and sentenced to
13 imprisonment for life before October 1, 1998 is to be released on
14 parole, the parole board shall consider all of the following:

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

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

20 (c) Any of the following:

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

1 (ii) Whether the individual was a principal administrator,
2 organizer, or leader of an entity that the individual knew or had
3 reason to know committed violations of section 7401 or 7403 of the
4 public health code, 1978 PA 368, MCL 333.7401 and 333.7403, and
5 whether the violation for which the individual was convicted was
6 committed to further the interests of that entity.

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

9 (iv) Whether the violation involved the delivery of a
10 controlled substance to an individual less than 17 years of age or
11 possession with intent to deliver a controlled substance to an
12 individual less than 17 years of age.

13 (7) ~~-(9)-~~ Except as provided in section 34a, a prisoner's
14 release on parole is discretionary with the parole board. The
15 action of the parole board in granting a parole is appealable by
16 the prosecutor of the county from which the prisoner was committed
17 or the victim of the crime for which the prisoner was convicted.
18 The appeal shall be to the circuit court in the county from which
19 the prisoner was committed, by leave of the court.

20 (8) ~~-(10)-~~ If the sentencing judge, or his or her successor in
21 office, determines on the record that a prisoner described in
22 subsection ~~-(6)-~~ (4) sentenced to imprisonment for life for
23 violating or conspiring to violate section 7401(2)(a)(i) of the
24 public health code, 1978 PA 368, MCL 333.7401, has cooperated with
25 law enforcement, the prisoner is subject to the jurisdiction of the
26 parole board and may be released on parole as provided in
27 subsection ~~-(6)-~~ (4), 2-1/2 years earlier than the time otherwise

1 indicated in subsection ~~-(6)-~~ **(4)**. The prisoner is considered to
2 have cooperated with law enforcement if the court determines on the
3 record that the prisoner had no relevant or useful information to
4 provide. The court shall not make a determination that the prisoner
5 failed or refused to cooperate with law enforcement on grounds that
6 the defendant exercised his or her constitutional right to trial by
7 jury. If the court determines at sentencing that the defendant
8 cooperated with law enforcement, the court shall include its
9 determination in the judgment of sentence.

10 **(9)** ~~-(11)-~~ An individual convicted of violating or conspiring
11 to violate section 7401(2)(a)(ii) or 7403(2)(a)(ii) of the public
12 health code, 1978 PA 368, MCL 333.7401 and 333.7403, before March
13 1, 2003 is eligible for parole after serving the minimum of each
14 sentence imposed for that violation or 10 years of each sentence
15 imposed for that violation, whichever is less.

16 **(10)** ~~-(12)-~~ An individual convicted of violating or conspiring
17 to violate section 7401(2)(a)(iii) or 7403(2)(a)(iii) of the public
18 health code, 1978 PA 368, MCL 333.7401 and 333.7403, before March
19 1, 2003 is eligible for parole after serving the minimum of each
20 sentence imposed for that violation or 5 years of each sentence
21 imposed for that violation, whichever is less.

22 **(11)** ~~-(13)-~~ An individual convicted of violating or conspiring
23 to violate section 7401(2)(a)(iv) or 7403(2)(a)(iv) of the public
24 health code, 1978 PA 368, MCL 333.7401 and 333.7403, before March
25 1, 2003 who is sentenced to a term of imprisonment that is
26 consecutive to a term of imprisonment imposed for any other
27 violation of section 7401(2)(a)(i) to (iv) or section 7403(2)(a)(i)

1 to (iv) is eligible for parole after serving 1/2 of the minimum
2 sentence imposed for each violation of section 7401(2)(a)(iv) or
3 7403(2)(a)(iv). This subsection does not apply if the sentence was
4 imposed for a conviction for a new offense committed while the
5 individual is on probation or parole.

6 (12) ~~—(14)—~~ The parole board shall provide notice to the
7 prosecuting attorney of the county in which the individual was
8 convicted before granting parole to the individual under subsection
9 ~~(11), (12), or (13)~~ (9), (10), OR (11).

10 (13) ~~—(15)—~~ As used in this section:

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

20 (b) "State correctional facility" means a facility that houses
21 prisoners committed to the jurisdiction of the department, and
22 includes a youth correctional facility operated under section 20g
23 by the department or a private vendor.

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 meet all of the following
13 requirements:

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

16 (i) 24 months or less for a violation of section 110 of the
17 Michigan penal code, 1931 PA 328, MCL 750.110, if the violation
18 involved any occupied dwelling house.

19 (ii) 36 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 (6).

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 11, 49, 80, 83, 89, 91, 157b, 158,
10 207, 260, 316, 317, 327, 328, 335a, 338, 338a, 338b, 349, 349a,
11 350, 422, 436, 511, ~~516, 517,~~ 520b, 529, 529a, 531, or 544 of the
12 Michigan penal code, 1931 PA 328, MCL 750.11, 750.49, 750.80,
13 750.83, 750.89, 750.91, 750.157b, 750.158, 750.207, 750.260,
14 750.316, 750.317, 750.327, 750.328, 750.335a, 750.338, 750.338a,
15 750.338b, 750.349, 750.349a, 750.350, 750.422, 750.436, 750.511,
16 ~~750.516, 750.517,~~ 750.520b, 750.529, 750.529a, 750.531, and
17 750.544, **OR FORMER SECTION 516 OR 517 OF THE MICHIGAN PENAL CODE,**
18 **1931 PA 328.**

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

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

24 (iv) A violation of section 86, 112, 136b, 193, 195, 213, 319,
25 321, 329, or 397 of the Michigan penal code, 1931 PA 328, MCL
26 750.86, 750.112, 750.136b, 750.193, 750.195, 750.213, 750.319,
27 750.321, 750.329, and 750.397.

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

2 (vi) An attempt to commit a crime described in subparagraphs
3 (i) to (v).

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

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

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

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

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

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

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

16 (7) Upon certification of completion of the special
17 alternative incarceration program, the prisoner shall be placed on
18 parole. A prisoner paroled under this section shall have conditions
19 of parole as determined appropriate by the parole board and shall
20 be placed on parole for not less than 18 months, or the balance of
21 the prisoner's minimum sentence, whichever is greater, with at
22 least the first 120 days under intensive supervision.

23 (8) The parole board may suspend or revoke parole for any
24 prisoner paroled under this section subject to sections 39a and
25 40a. ~~For a prisoner other than a prisoner subject to disciplinary~~
26 ~~time, if~~ **IF** parole is revoked before the expiration of the
27 prisoner's minimum sentence, less disciplinary credits, the parole

1 board shall forfeit, pursuant to section 33(13) of 1893 PA 118, MCL
2 800.33, all disciplinary credits that were accumulated during
3 special alternative incarceration, and the prisoner shall be
4 considered for parole pursuant to section 35.

5 (9) On March 19, 1993, and annually after that time, the
6 department shall report to the legislature the impact of the
7 operation of this section, including a report concerning
8 recidivism.

9 Sec. 35. (1) The release of a prisoner on parole shall be
10 granted solely upon the initiative of the parole board. The parole
11 board may grant a parole without interviewing the prisoner.
12 However, beginning ~~on the date on which the administrative rules~~
13 ~~prescribing parole guidelines pursuant to section 33e(5) take~~
14 ~~effect~~ **JANUARY 26, 1996**, the parole board may grant a parole
15 without interviewing the prisoner only if, after evaluating the
16 prisoner according to the parole guidelines, the parole board
17 determines that the prisoner has a high probability of being
18 paroled and the parole board therefore intends to parole the
19 prisoner. Except as provided in subsection (2), a prisoner shall
20 not be denied parole without an interview before 1 member of the
21 parole board. The interview shall be conducted at least 1 month
22 before the expiration of the prisoner's minimum sentence less
23 applicable good time and disciplinary credits. ~~for a prisoner~~
24 ~~eligible for good time and disciplinary credits, or at least 1~~
25 ~~month before the expiration of the prisoner's minimum sentence for~~
26 ~~a prisoner subject to disciplinary time.~~ The parole board shall
27 consider any statement made to the parole board by a crime victim

1 under the crime victim's rights act, 1985 PA 87, MCL 780.751 to
2 780.834, or under any other provision of law. The parole board
3 shall not consider any of the following factors in making a parole
4 determination:

5 (a) A juvenile record that a court has ordered the department
6 to expunge.

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

13 (2) Beginning ~~on the date on which the administrative rules~~
14 ~~prescribing the parole guidelines take effect pursuant to section~~
15 ~~33e(5)~~ **JANUARY 26, 1996**, if, after evaluating a prisoner according
16 to the parole guidelines, the parole board determines that the
17 prisoner has a low probability of being paroled and the parole
18 board therefore does not intend to parole the prisoner, the parole
19 board shall not be required to interview the prisoner before
20 denying parole to the prisoner.

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

23 (a) A prisoner's marital history.

24 (b) Prior arrests not resulting in conviction or adjudication
25 of delinquency.

26 (4) If an interview is to be conducted, the prisoner shall be
27 sent a notice of intent to conduct an interview at least 1 month

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

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

15 (6) A prisoner may waive the right to an interview by 1 member
16 of the parole board. The waiver of the right to be interviewed
17 shall be given not more than 30 days after the notice of intent to
18 conduct an interview is issued and shall be made in writing. During
19 the interview held pursuant to a notice of intent to conduct an
20 interview, the prisoner may be represented by an individual of his
21 or her choice. The representative shall not be another prisoner or
22 an attorney. A prisoner is not entitled to appointed counsel at
23 public expense. The prisoner or representative may present relevant
24 evidence in support of release. This subsection does not apply
25 until April 1, 1983.

26 (7) At least 90 days before the expiration of the prisoner's
27 minimum sentence less applicable good time and disciplinary

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

9 (a) A statement of all major misconduct charges of which the
10 prisoner was found guilty and the punishment served for the
11 misconduct.

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

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

15 (d) Whether the prisoner fully cooperated with the state by
16 providing complete financial information as required under section
17 3a of the state correctional facility reimbursement act, 1935 PA
18 253, MCL 800.403a.

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

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

24 (9) Psychological evaluations performed at the request of the
25 parole board to assist it in reaching a decision on the release of
26 a prisoner may be performed by the same person who provided the
27 prisoner with therapeutic treatment, unless a different person is

1 requested by the prisoner or parole board.

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

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

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

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

27 Sec. 36. (1) All paroles shall be ordered by the parole board

1 and shall be signed by the chairperson. Written notice of the order
2 shall be given to the sheriff or other police officer of the
3 municipality or county in which the prisoner was convicted, and to
4 the sheriff or other local police officer of the municipality or
5 county to which the paroled prisoner is sent.

6 (2) A parole order may be amended or rescinded at the
7 discretion of the parole board for cause. If a paroled prisoner who
8 is required to register pursuant to the sex offenders registration
9 act, 1994 PA 295, MCL 28.721 to 28.732, willfully violates that
10 act, the parole board shall rescind the parole. If a prisoner
11 convicted of violating or conspiring to violate section
12 7401(2)(a)(i) or (ii) or 7403(2)(a)(i) or (ii) of the public health
13 code, 1978 PA 368, MCL 333.7401 and 333.7403, is released on parole
14 and violates or conspires to violate article 7 of the public health
15 code, 1978 PA 368, MCL 333.7401 to 333.7545, and that violation or
16 conspiracy to violate is punishable by imprisonment for 4 or more
17 years, or commits a violent felony during his or her release on
18 parole, parole shall be rescinded.

19 (3) A parole shall not be rescinded unless an interview is
20 conducted by 1 member of the parole board. The purpose of the
21 interview is to consider and act upon information received by the
22 board after the original parole release decision. A rescission
23 interview shall be conducted within 45 days after receiving the new
24 information. At least 10 days before the interview, the parolee
25 shall receive a copy or summary of the new evidence that is the
26 basis for the interview. An amendment to a parole order shall be in
27 writing and is not effective until notice of the amendment is given

1 to the parolee.

2 (4) When a parole order is issued, the order shall contain the
3 conditions of the parole and shall specifically provide proper
4 means of supervision of the paroled prisoner in accordance with the
5 rules of the bureau of field services.

6 (5) The parole order shall contain a condition to pay
7 restitution to the victim of the prisoner's crime or the victim's
8 estate if the prisoner was ordered to make restitution pursuant to
9 the crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834,
10 or the code of criminal procedure, 1927 PA 175, MCL 760.1 to
11 777.69.

12 (6) The parole order shall contain a condition requiring the
13 parolee to pay a parole supervision fee as prescribed in section
14 36a.

15 (7) The parole order shall contain a condition requiring the
16 parolee to pay any assessment the prisoner was ordered to pay
17 pursuant to section 5 of 1989 PA 196, MCL 780.905.

18 (8) The parole order shall contain a condition requiring the
19 parolee to pay the minimum state cost prescribed by section 1j of
20 chapter IX of the code of criminal procedure, 1927 PA 175, MCL
21 769.1j, if the minimum state cost has not been paid.

22 (9) If the parolee is required to be registered under the sex
23 offenders registration act, 1994 PA 295, MCL 28.721 to 28.732, the
24 parole order shall contain a condition requiring the parolee to
25 comply with that act.

26 (10) If a prisoner convicted of violating or conspiring to
27 violate section 7401(2)(a)(i) or (ii) or 7403(2)(a)(i) or (ii) of the

1 public health code, 1978 PA 368, MCL 333.7401 and 333.7403, is
2 released on parole, the parole order shall contain a notice that if
3 the parolee violates or conspires to violate article 7 of the
4 public health code, 1978 PA 368, MCL 333.7401 to 333.7545, and that
5 violation or conspiracy to violate is punishable by imprisonment
6 for 4 or more years, or commits a violent felony during his or her
7 release on parole, parole shall be rescinded.

8 ~~—— (11) A parole order issued for a prisoner subject to~~
9 ~~disciplinary time may contain a condition requiring the parolee to~~
10 ~~be housed in a community corrections center or a community~~
11 ~~residential home for not less than the first 30 days but not more~~
12 ~~than the first 180 days of his or her term of parole. As used in~~
13 ~~this subsection, "community corrections center" and "community~~
14 ~~residential home" mean those terms as defined in section 65a.~~

15 (11) ~~—(12)—~~ The parole order shall contain a condition
16 requiring the parolee to pay the following amounts owed by the
17 prisoner, if applicable:

18 (a) The balance of filing fees and costs ordered to be paid
19 under section 2963 of the revised judicature act of 1961, 1961 PA
20 236, MCL 600.2963.

21 (b) The balance of any filing fee ordered to be paid by a
22 federal court under section 1915 of title 28 of the United States
23 Code, 28 ~~U.S.C.~~ **USC** 1915 and any unpaid order of costs assessed
24 against the prisoner.

25 (12) ~~—(13)—~~ In each case in which payment of restitution is
26 ordered as a condition of parole, a parole officer assigned to a
27 case shall review the case not less than twice yearly to ensure

1 that restitution is being paid as ordered. The final review shall
2 be conducted not less than 60 days before the expiration of the
3 parole period. If the parole officer determines that restitution is
4 not being paid as ordered, the parole officer shall file a written
5 report of the violation with the parole board on a form prescribed
6 by the parole board. The report shall include a statement of the
7 amount of arrearage and any reasons for the arrearage known by the
8 parole officer. The parole board shall immediately provide a copy
9 of the report to the court, the prosecuting attorney, and the
10 victim.

11 (13) ~~-(14)-~~ If a parolee is required to register pursuant to
12 the sex offenders registration act, 1994 PA 295, MCL 28.721 to
13 28.732, the parole officer shall register the parolee as provided
14 in that act.

15 (14) ~~-(15)-~~ If the parole order contains a condition intended
16 to protect 1 or more named persons, the department shall enter
17 those provisions of the parole order into the corrections
18 management information system, accessible by the law enforcement
19 information network. If the parole board rescinds a parole order
20 described in this subsection, the department within 3 business days
21 shall remove from the corrections management information system the
22 provisions of that parole order.

23 (15) ~~-(16)-~~ As used in this section, "violent felony" means an
24 offense against a person in violation of section 82, 83, 84, 86,
25 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d,
26 520e, 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA
27 328, MCL 750.82, 750.83, 750.84, 750.86, 750.87, 750.88, 750.89,

1 750.316, 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397,
2 750.520b, 750.520c, 750.520d, 750.520e, 750.520g, 750.529,
3 750.529a, and 750.530.

4 Sec. 51. (1) There is created within the department a hearings
5 division. The division is under the direction and supervision of
6 the hearings administrator who is appointed by the director of the
7 department.

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

13 (a) An infraction of a prison rule that may result in punitive
14 segregation, loss of disciplinary credits, or the loss of good
15 time.

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

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

21 (d) Visitor restrictions.

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

23 ~~—(3) Except as otherwise provided in this section, the hearings~~
24 ~~division is responsible for each prisoner hearing that may result~~
25 ~~in the accumulation of disciplinary time.~~

26 (3) ~~—(4)~~ The hearings division is not responsible for a
27 prisoner hearing that is conducted for prisoners transferred under

1 section 11a to an institution of another state pursuant to the
2 interstate corrections compact.

3 (4) ~~—(5)—~~ The hearings division is not responsible for a
4 prisoner hearing that is conducted as a result of a minor
5 misconduct charge that would not cause a loss of good time or
6 disciplinary credits, or result in placement in punitive
7 segregation.

8 (5) ~~—(6)—~~ Each hearings officer of the department is under the
9 direction and supervision of the hearings division. Each hearings
10 officer hired by the department after October 1, 1979 ~~—~~ shall be
11 an attorney.

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

22 ~~—(2) A prisoner who is subject to disciplinary time and is~~
23 ~~committed to the jurisdiction of the department shall be confined~~
24 ~~in a secure correctional facility for the duration of his or her~~
25 ~~minimum sentence, except for periods when the prisoner is away from~~
26 ~~the secure correctional facility while being supervised by an~~
27 ~~employee of the department or by an employee of a private vendor~~

1 ~~that operates a youth correctional facility under section 20g for 1~~
2 ~~of the following purposes:~~

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

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

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

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

8 (2) ~~—(3)—~~ As used in this section, "offender" means a citizen
9 of the United States or a foreign country who has been convicted of
10 a crime and been given a sentence in a country other than the
11 country of which he or she is a citizen. If a treaty is in effect
12 between the United States and a foreign country, which provides for
13 the transfer of offenders from the jurisdiction of 1 of the
14 countries to the jurisdiction of the country of which the offender
15 is a citizen, and if the offender requests the transfer, the
16 governor of this state or a person designated by the governor may
17 give the approval of this state to a transfer of an offender, if
18 the conditions of the treaty are satisfied.

19 (3) ~~—(4)—~~ Not less than 45 days before approval of a transfer
20 pursuant to subsection ~~—(3)—~~ (2) from this state to another
21 country, the governor, or the governor's designee, shall notify the
22 sentencing judge and the prosecuting attorney of the county having
23 original jurisdiction, or their successors in office, of the
24 request for transfer. The notification shall indicate any name
25 changes of the offender subsequent to sentencing. Within 20 days
26 after receiving such notification, the judge or prosecutor may send
27 to the governor, or the governor's designee, information about the

1 criminal action against the offender or objections to the transfer.
2 Objections to the transfer shall not preclude approval of the
3 transfer.

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

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

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

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

14 Sec. 65a. (1) Under prescribed conditions, the director may
15 extend the limits of confinement of a prisoner when there is
16 reasonable assurance, after consideration of all facts and
17 circumstances, that the prisoner will not become a menace to
18 society or to the public safety, by authorizing the prisoner to do
19 any of the following:

20 (a) Visit a specifically designated place or places. An
21 extension of limits may be granted only to a prisoner housed in a
22 state correctional facility to permit a visit to a critically ill
23 relative, attendance at the funeral of a relative, or contacting
24 prospective employers. The maximum amount of time a prisoner is
25 eligible for an extension of the limits of confinement under this
26 subdivision shall not exceed a cumulative total period of 30 days.

27 (b) Obtain medical services not otherwise available to a

1 prisoner housed in a state correctional facility.

2 (c) Work at paid employment, participate in a training or
3 educational program, or participate in a community residential drug
4 treatment program while continuing as a prisoner housed on a
5 voluntary basis at a community corrections center or in a community
6 residential home.

7 (2) The director shall promulgate rules to implement this
8 section.

9 (3) The willful failure of a prisoner to remain within the
10 extended limits of his or her confinement or to return within the
11 time prescribed to an institution or facility designated by the
12 director shall be considered an escape from custody as provided in
13 section 193 of the Michigan penal code, 1931 PA 328, MCL 750.193.

14 (4) Subject to subsection ~~(8)~~ (7), a prisoner ~~—, other than~~
15 ~~a prisoner subject to disciplinary time,~~ who is convicted of a
16 crime of violence or any assaultive crime is not eligible for the
17 extensions of the limits of confinement provided in subsection (1)
18 until the minimum sentence imposed for the crime has less than 180
19 days remaining.

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

24 (5) ~~(6)~~ However, notwithstanding ~~subsections~~ **SUBSECTION**
25 (4), ~~or (5),~~ if the reason for the extension is to visit a
26 critically ill relative, attend the funeral of a relative, or
27 obtain medical services not otherwise available, the director may

1 allow the extension under escort as provided in subsection (1).

2 (6) ~~-(7)-~~ A prisoner serving a sentence for murder in the
3 first degree is not eligible for the extensions of confinement
4 under this section until a parole release date is established by
5 the parole board and in no case before serving 15 calendar years
6 with a good institutional adjustment.

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

11 (8) ~~-(9)-~~ As used in this section:

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

15 (b) "Community residential home" means a location where
16 electronic monitoring of prisoner presence is provided by the
17 department 7 days per week, 24 hours per day, except that the
18 department may waive the requirement that electronic monitoring be
19 provided as to any prisoner who is within 3 months of his or her
20 parole date.

21 (c) "State correctional facility" means a facility owned or
22 leased by the department. State correctional facility does not
23 include a community corrections center or community residential
24 home.

25 Enacting section 1. Sections 33b and 33c of the corrections
26 code of 1953, 1953 PA 232, MCL 791.233b and 791.233c, are repealed.

27 Enacting section 2. This amendatory act does not take effect

1 unless all of the following bills of the 93rd Legislature are
2 enacted into law:

3 (a) Senate Bill No.____ or House Bill No. 5130(request no.
4 03404'05 a).

5 (b) Senate Bill No.____ or House Bill No. 5131(request no.
6 03404'05 b).