

HOUSE BILL No. 5224

September 27, 2005, Introduced by Reps. Kolb, Alma Smith and Gleason 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~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION**
 2 **(12), THE** release of a prisoner on parole shall be granted solely
 3 upon the initiative of the parole board. The parole board may grant
 4 a parole without interviewing the prisoner. However, beginning ~~on~~
 5 ~~the date on which the administrative rules prescribing parole~~
 6 ~~guidelines pursuant to section 33e(5) take effect~~ **JANUARY 26,**
 7 **1996,** the parole board may grant a parole without interviewing the
 8 prisoner only if, after evaluating the prisoner according to the
 9 parole guidelines, the parole board determines that the prisoner

1 has a high probability of being paroled and the parole board
2 therefore intends to parole the prisoner. Except as provided in
3 subsection (2), a prisoner shall not be denied parole without an
4 interview before 1 member of the parole board. The interview shall
5 be conducted at least 1 month before the expiration of the
6 prisoner's minimum sentence less applicable good time and
7 disciplinary credits for a prisoner eligible for good time and
8 disciplinary credits, or at least 1 month before the expiration of
9 the prisoner's minimum sentence for a prisoner subject to
10 disciplinary time. The parole board shall consider any statement
11 made to the parole board by a crime victim under the crime victim's
12 rights act, 1985 PA 87, MCL 780.751 to 780.834, or under any other
13 provision of law. The parole board shall not consider any of the
14 following factors in 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 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)-~~ (13). This
18 subsection 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) For a prisoner subject to disciplinary time, a statement
3 of all disciplinary time submitted for the parole board's
4 consideration pursuant to section 34 of 1893 PA 118, MCL 800.34.

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

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

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

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

1 health code, 1974 PA 258, MCL 330.1401.

2 (12) NOTWITHSTANDING SUBSECTIONS (1) TO (11), THE PAROLE BOARD
3 SHALL RELEASE ON PAROLE ANY PRISONER WHO HAS SERVED HIS OR HER
4 MINIMUM SENTENCE LESS ANY APPLICABLE GOOD TIME OR DISCIPLINARY
5 CREDITS OR, IN THE CASE OF A PRISONER SUBJECT TO DISCIPLINARY TIME,
6 HAS SERVED HIS OR HER MINIMUM SENTENCE, IF THE PRISONER HAS NOT
7 BEEN FOUND GUILTY OF ANY MAJOR MISCONDUCT CHARGES DURING HIS OR HER
8 TERM OF INCARCERATION AND HIS OR HER RELEASE ON PAROLE WOULD NOT
9 THREATEN THE PUBLIC SAFETY.

10 (13) ~~-(12)-~~ When the parole board makes a final determination
11 not to release a prisoner, the prisoner shall be provided with a
12 written explanation of the reason for denial and, if appropriate,
13 specific recommendations for corrective action the prisoner may
14 take to facilitate release.

15 (14) ~~-(13)-~~ This section does not apply to the placement on
16 parole of a person in conjunction with special alternative
17 incarceration under section 34a(7).