

# SENATE BILL No. 155

February 3, 2005, 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 34 (MCL 791.234), as amended by 2004 PA 218.

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

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

9           (2) Except as provided in section 34a, a prisoner subject to

1 disciplinary time sentenced to an indeterminate sentence and  
2 confined in a state correctional facility with a minimum in terms  
3 of years is subject to the jurisdiction of the parole board when  
4 the prisoner has served a period of time equal to the minimum  
5 sentence imposed by the court for the crime of which he or she was  
6 convicted.

7 (3) If a prisoner other than a prisoner subject to  
8 disciplinary time is sentenced for consecutive terms, whether  
9 received at the same time or at any time during the life of the  
10 original sentence, the parole board has jurisdiction over the  
11 prisoner for purposes of parole when the prisoner has served the  
12 total time of the added minimum terms, less the good time and  
13 disciplinary credits allowed by statute. The maximum terms of the  
14 sentences shall be added to compute the new maximum term under this  
15 subsection, and discharge shall be issued only after the total of  
16 the maximum sentences has been served less good time and  
17 disciplinary credits, unless the prisoner is paroled and discharged  
18 upon satisfactory completion of the parole.

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

1 completion of the parole.

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

7 (6) A prisoner under sentence for life, other than a prisoner  
8 sentenced for life for murder in the first degree or sentenced for  
9 life for a violation of section 16(5) or 18(7) or chapter XXXIII of  
10 the Michigan penal code, 1931 PA 328, MCL 750.16, 750.18, and  
11 750.200 to 750.212a, or section 17764(7) of the public health code,  
12 1978 PA 368, MCL 333.17764, who has served 10 calendar years of the  
13 sentence in the case of a prisoner sentenced for a crime committed  
14 before October 1, 1992, or, except as provided in subsection (10),  
15 who has served 20 calendar years of the sentence in the case of a  
16 prisoner sentenced to imprisonment for life for violating or  
17 conspiring to violate section 7401(2)(a)(i) of the public health  
18 code, 1978 PA 368, MCL 333.7401, who has another conviction for a  
19 serious crime, or, except as provided in subsection (10), who has  
20 served 17-1/2 calendar years of the sentence in the case of a  
21 prisoner sentenced to imprisonment for life for violating or  
22 conspiring to violate section 7401(2)(a)(i) of the public health  
23 code, 1978 PA 368, MCL 333.7401, who does not have another  
24 conviction for a serious crime, or who has served 15 calendar years  
25 of the sentence in the case of a prisoner sentenced for a crime  
26 committed on or after October 1, 1992, is subject to the  
27 jurisdiction of the parole board and may be released on parole by

1 the parole board, subject to the following conditions:

2 (a) At the conclusion of 10 calendar years of the prisoner's  
3 sentence and **EVERY 5 YEARS** thereafter ~~as determined by the parole~~  
4 ~~board~~ until the prisoner is paroled, discharged, or deceased, and  
5 in accordance with the procedures described in subsection (7), 1  
6 member of the parole board shall interview the prisoner. The  
7 interview schedule prescribed in this subdivision applies to all  
8 prisoners to whom this subsection ~~is applicable~~ **APPLIES**,  
9 regardless of the date on which they were sentenced.

10 ~~— (b) In addition to the interview schedule prescribed in~~  
11 ~~subdivision (a), the parole board shall review the prisoner's file~~  
12 ~~at the conclusion of 15 calendar years of the prisoner's sentence~~  
13 ~~and every 5 years thereafter until the prisoner is paroled,~~  
14 ~~discharged, or deceased. A prisoner whose file is to be reviewed~~  
15 ~~under this subdivision shall be notified of the upcoming file~~  
16 ~~review at least 30 days before the file review takes place and~~  
17 ~~shall be allowed to submit written statements or documentary~~  
18 ~~evidence for the parole board's consideration in conducting the~~  
19 ~~file review.~~

20 **(B)** ~~—(c)~~ A decision to grant or deny parole to a prisoner so  
21 sentenced shall not be made until after a public hearing held in  
22 the manner prescribed for pardons and commutations in sections 44  
23 and 45. Notice of the public hearing shall be given to the  
24 sentencing judge, or the judge's successor in office, and parole  
25 shall not be granted if the sentencing judge, or the judge's  
26 successor in office, files written objections to the granting of  
27 the parole within 30 days of receipt of the notice of hearing. The

1 written objections shall be made part of the prisoner's file.

2 (C) ~~(d)~~ A parole granted under this subsection shall be for  
3 a period of not less than 4 years and subject to the usual rules  
4 pertaining to paroles granted by the parole board. A parole ordered  
5 under this subsection is not valid until the transcript of the  
6 record is filed with the attorney general whose certification of  
7 receipt of the transcript shall be returnable to the office of the  
8 parole board within 5 days. Except for medical records protected  
9 under section 2157 of the revised judicature act of 1961, 1961 PA  
10 236, MCL 600.2157, the file of a prisoner granted a parole under  
11 this subsection is a public record.

12 (D) ~~(e)~~ A parole shall not be granted under this subsection  
13 in the case of a prisoner who is otherwise prohibited by law from  
14 parole consideration. In such cases the interview procedures in  
15 section 44 shall be followed.

16 (7) An interview conducted under subsection (6)(a) is subject  
17 to both of the following requirements:

18 (a) The prisoner shall be given written notice, not less than  
19 30 days before the interview date, stating that the interview will  
20 be conducted.

21 (b) The prisoner may be represented at the interview by an  
22 individual of his or her choice. The representative shall not be  
23 another prisoner. A prisoner is not entitled to appointed counsel  
24 at public expense. The prisoner or representative may present  
25 relevant evidence in favor of holding a public hearing as described  
26 in subsection ~~(6)(b)~~ (6)(C).

27 (8) In determining whether a prisoner convicted of violating

1 or conspiring to violate section 7401(2)(a)(i) of the public health  
2 code, 1978 PA 368, MCL 333.7401, and sentenced to imprisonment for  
3 life before October 1, 1998 is to be released on parole, the parole  
4 board shall consider all of the following:

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

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

10 (c) Any of the following:

11 (i) Whether the individual was a principal administrator,  
12 organizer, or leader of an entity that the individual knew or had  
13 reason to know was organized, in whole or in part, to commit  
14 violations of section 7401 or 7403 of the public health code, 1978  
15 PA 368, MCL 333.7401 and 333.7403, and whether the violation for  
16 which the individual was convicted was committed to further the  
17 interests of that entity.

18 (ii) Whether the individual was a principal administrator,  
19 organizer, or leader of an entity that the individual knew or had  
20 reason to know committed violations of section 7401 or 7403 of the  
21 public health code, 1978 PA 368, MCL 333.7401 and 333.7403, and  
22 whether the violation for which the individual was convicted was  
23 committed to further the interests of that entity.

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

26 (iv) Whether the violation involved the delivery of a  
27 controlled substance to an individual less than 17 years of age or

1 possession with intent to deliver a controlled substance to an  
2 individual less than 17 years of age.

3 (9) Except as provided in section 34a, a prisoner's release on  
4 parole is discretionary with the parole board. The action of the  
5 parole board in granting a parole is appealable by the prosecutor  
6 of the county from which the prisoner was committed or the victim  
7 of the crime for which the prisoner was convicted. The appeal shall  
8 be to the circuit court in the county from which the prisoner was  
9 committed, by leave of the court.

10 (10) If the sentencing judge, or his or her successor in  
11 office, determines on the record that a prisoner described in  
12 subsection (6) sentenced to imprisonment for life for violating or  
13 conspiring to violate section 7401(2)(a)(i) of the public health  
14 code, 1978 PA 368, MCL 333.7401, has cooperated with law  
15 enforcement, the prisoner is subject to the jurisdiction of the  
16 parole board and may be released on parole as provided in  
17 subsection (6), 2-1/2 years earlier than the time otherwise  
18 indicated in subsection (6). The prisoner is considered to have  
19 cooperated with law enforcement if the court determines on the  
20 record that the prisoner had no relevant or useful information to  
21 provide. The court shall not make a determination that the prisoner  
22 failed or refused to cooperate with law enforcement on grounds that  
23 the defendant exercised his or her constitutional right to trial by  
24 jury. If the court determines at sentencing that the defendant  
25 cooperated with law enforcement, the court shall include its  
26 determination in the judgment of sentence.

27 (11) An individual convicted of violating or conspiring to

1 violate section 7401(2) (a) (ii) or 7403(2) (a) (ii) of the public health  
2 code, 1978 PA 368, MCL 333.7401 and 333.7403, before March 1, 2003  
3 is eligible for parole after serving the minimum of each sentence  
4 imposed for that violation or 10 years of each sentence imposed for  
5 that violation, whichever is less.

6 (12) An individual convicted of violating or conspiring to  
7 violate section 7401(2) (a) (iii) or 7403(2) (a) (iii) of the public health  
8 code, 1978 PA 368, MCL 333.7401 and 333.7403, before March 1, 2003  
9 is eligible for parole after serving the minimum of each sentence  
10 imposed for that violation or 5 years of each sentence imposed for  
11 that violation, whichever is less.

12 (13) An individual convicted of violating or conspiring to  
13 violate section 7401(2) (a) (iv) or 7403(2) (a) (iv) of the public health  
14 code, 1978 PA 368, MCL 333.7401 and 333.7403, before March 1, 2003  
15 who is sentenced to a term of imprisonment that is consecutive to a  
16 term of imprisonment imposed for any other violation of section  
17 7401(2) (a) (i) to (iv) or section 7403(2) (a) (i) to (iv) is eligible for  
18 parole after serving 1/2 of the minimum sentence imposed for each  
19 violation of section 7401(2) (a) (iv) or 7403(2) (a) (iv). This  
20 subsection does not apply if the sentence was imposed for a  
21 conviction for a new offense committed while the individual is on  
22 probation or parole.

23 (14) The parole board shall provide notice to the prosecuting  
24 attorney of the county in which the individual was convicted before  
25 granting parole to the individual under subsection (11), (12), or  
26 (13).

27 (15) As used in this section:



1 (a) "Serious crime" means violating or conspiring to violate  
2 article 7 of the public health code, 1978 PA 368, MCL 333.7101 to  
3 333.7545, that is punishable by imprisonment for more than 4 years,  
4 or an offense against a person in violation of section 83, 84, 86,  
5 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d,  
6 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA 328,  
7 MCL 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.316,  
8 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b,  
9 750.520c, 750.520d, 750.520g, 750.529, 750.529a, and 750.530.

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