

HOUSE BILL No. 4497

March 3, 2009, 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 2006 PA 167, section 34a as amended by 2008 PA 158, sections 35 and 65a as amended by 1998 PA 315, section 36 as amended by 2008 PA 191, 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 disciplinary~~
27 ~~time~~ until the prisoner has served the minimum term imposed by the

1 court less allowances for good time or special good time to which
2 the prisoner may be entitled by statute, except that a prisoner
3 ~~other than a prisoner subject to disciplinary time~~ is eligible for
4 parole before the expiration of his or her minimum term of
5 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 (C) ~~(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 (D) ~~(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 a~~
5 ~~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 sentenced to imprisonment for life for any~~
18 ~~of the following is not eligible for parole and is instead subject~~
19 ~~to the provisions of section 44:~~

20 (a) First degree murder in violation of section 316 of the
21 Michigan penal code, 1931 PA 328, MCL 750.316.

22 (b) A violation of section 16(5) or 18(7) of the Michigan
23 penal code, 1931 PA 328, MCL 750.16 and 750.18.

24 (c) A violation of chapter XXXIII of the Michigan penal code,
25 1931 PA 328, MCL 750.200 to 750.212a.

26 (d) A violation of section 17764(7) of the public health code,
27 1978 PA 368, MCL 333.17764.

1 (e) First degree criminal sexual conduct in violation of
2 section 520b(2)(c) of the Michigan penal code, 1931 PA 328, MCL
3 750.520b.

4 (f) Any other violation for which parole eligibility is
5 expressly denied under state law.

6 (5) ~~(7)~~—A prisoner sentenced to imprisonment for life, other
7 than a prisoner described in subsection ~~(6)~~—(4), is subject to the
8 jurisdiction of the parole board and may be placed on parole
9 according to the conditions prescribed in subsection ~~(8)~~—(6) if he
10 or she meets any of the following criteria:

11 (a) Except as provided in subdivision (b) or (c), the prisoner
12 has served 10 calendar years of the sentence for a crime committed
13 before October 1, 1992 or 15 calendar years of the sentence for a
14 crime committed on or after October 1, 1992.

15 (b) Except as provided in subsection ~~(12)~~—(10), the prisoner
16 has served 20 calendar years of a sentence for violating or
17 conspiring to violate section 7401(2)(a)(i) of the public health
18 code, 1978 PA 368, MCL 333.7401, and has another conviction for a
19 serious crime.

20 (c) Except as provided in subsection ~~(12)~~—(10), the prisoner
21 has served 17-1/2 calendar years of the sentence for violating or
22 conspiring to violate section 7401(2)(a)(i) of the public health
23 code, 1978 PA 368, MCL 333.7401, and does not have another
24 conviction for a serious crime.

25 (6) ~~(8)~~—A parole granted to a prisoner under subsection ~~(7)~~
26 (5) is subject to the following conditions:

27 (a) At the conclusion of 10 calendar years of the prisoner's

1 sentence and thereafter as determined by the parole board until the
2 prisoner is paroled, discharged, or deceased, and in accordance
3 with the procedures described in subsection ~~(9)~~-(7), 1 member of
4 the parole board shall interview the prisoner. The interview
5 schedule prescribed in this subdivision applies to all prisoners to
6 whom subsection ~~(7)~~-(5) applies, regardless of the date on which
7 they were sentenced.

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

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

27 (d) A parole granted under subsection ~~(7)~~-(5) shall be for a

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

10 (7) ~~(9)~~-An interview conducted under subsection ~~(8)(a)~~-(6) (A)
11 is subject to both of the following requirements:

12 (a) The prisoner shall be given written notice, not less than
13 30 days before the interview date, stating that the interview will
14 be conducted.

15 (b) The prisoner may be represented at the interview by an
16 individual of his or her choice. The representative shall not be
17 another prisoner. A prisoner is not entitled to appointed counsel
18 at public expense. The prisoner or representative may present
19 relevant evidence in favor of holding a public hearing as allowed
20 in subsection ~~(8)(b)~~-(6) (B) .

21 (8) ~~(10)~~-In determining whether a prisoner convicted of
22 violating or conspiring to violate section 7401(2) (a) (i) of the
23 public health code, 1978 PA 368, MCL 333.7401, and sentenced to
24 imprisonment for life before October 1, 1998 is to be released on
25 parole, the parole board shall consider all of the following:

26 (a) Whether the violation was part of a continuing series of
27 violations of section 7401 or 7403 of the public health code, 1978

1 PA 368, MCL 333.7401 and 333.7403, by that individual.

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

4 (c) Any of the following:

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

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

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

20 (iv) Whether the violation involved the delivery of a
21 controlled substance to an individual less than 17 years of age or
22 possession with intent to deliver a controlled substance to an
23 individual less than 17 years of age.

24 (9) ~~(11)~~—Except as provided in section 34a, a prisoner's
25 release on parole is discretionary with the parole board. The
26 action of the parole board in granting a parole is appealable by
27 the prosecutor of the county from which the prisoner was committed

1 or the victim of the crime for which the prisoner was convicted.
2 The appeal shall be to the circuit court in the county from which
3 the prisoner was committed, by leave of the court.

4 (10) ~~(12)~~—If the sentencing judge, or his or her successor in
5 office, determines on the record that a prisoner described in
6 subsection ~~(7) (b) or (e)~~ **(5) (B) OR (C)** sentenced to imprisonment
7 for life for violating or conspiring to violate section
8 7401(2) (a) (i) of the public health code, 1978 PA 368, MCL 333.7401,
9 has cooperated with law enforcement, the prisoner is subject to the
10 jurisdiction of the parole board and may be released on parole as
11 provided in subsection ~~(7) (b) or (e)~~ **(5) (B) OR (C)** 2-1/2 years
12 earlier than the time otherwise indicated in subsection ~~(7) (b) or~~
13 ~~(e)~~ **(5) (B) OR (C)**. The prisoner is considered to have cooperated
14 with law enforcement if the court determines on the record that the
15 prisoner had no relevant or useful information to provide. The
16 court shall not make a determination that the prisoner failed or
17 refused to cooperate with law enforcement on grounds that the
18 defendant exercised his or her constitutional right to trial by
19 jury. If the court determines at sentencing that the defendant
20 cooperated with law enforcement, the court shall include its
21 determination in the judgment of sentence.

22 (11) ~~(13)~~—An individual convicted of violating or conspiring
23 to violate section 7401(2) (a) (ii) or 7403(2) (a) (ii) of the public
24 health code, 1978 PA 368, MCL 333.7401 and 333.7403, before March
25 1, 2003 is eligible for parole after serving the minimum of each
26 sentence imposed for that violation or 10 years of each sentence
27 imposed for that violation, whichever is less.

1 (12) ~~(14)~~—An individual convicted of violating or conspiring
2 to violate section 7401(2)(a)(iii) or 7403(2)(a)(iii) of the public
3 health code, 1978 PA 368, MCL 333.7401 and 333.7403, before March
4 1, 2003 is eligible for parole after serving the minimum of each
5 sentence imposed for that violation or 5 years of each sentence
6 imposed for that violation, whichever is less.

7 (13) ~~(15)~~—An individual convicted of violating or conspiring
8 to violate section 7401(2)(a)(iv) or 7403(2)(a)(iv) of the public
9 health code, 1978 PA 368, MCL 333.7401 and 333.7403, before March
10 1, 2003 who is sentenced to a term of imprisonment that is
11 consecutive to a term of imprisonment imposed for any other
12 violation of section 7401(2)(a)(i) to (iv) or section 7403(2)(a)(i)
13 to (iv) is eligible for parole after serving 1/2 of the minimum
14 sentence imposed for each violation of section 7401(2)(a)(iv) or
15 7403(2)(a)(iv). This subsection does not apply if the sentence was
16 imposed for a conviction for a new offense committed while the
17 individual is on probation or parole.

18 (14) ~~(16)~~—The parole board shall provide notice to the
19 prosecuting attorney of the county in which the individual was
20 convicted before granting parole to the individual under subsection
21 ~~(13), (14), or (15)~~—(11), (12), OR (13).

22 (15) ~~(17)~~—As used in this section:

23 (a) "Serious crime" means violating or conspiring to violate
24 article 7 of the public health code, 1978 PA 368, MCL 333.7101 to
25 333.7545, that is punishable by imprisonment for more than 4 years,
26 or an offense against a person in violation of section 83, 84, 86,
27 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d,

1 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA 328,
2 MCL 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.316,
3 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b,
4 750.520c, 750.520d, 750.520g, 750.529, 750.529a, and 750.530.

5 (b) "State correctional facility" means a facility that houses
6 prisoners committed to the jurisdiction of the department. ~~and~~
7 ~~includes a youth correctional facility operated under section 20g~~
8 ~~by the department or a private vendor.~~

9 Sec. 34a. (1) A prisoner sentenced to an indeterminate term of
10 imprisonment under the jurisdiction of the department, regardless
11 of when he or she was sentenced, shall be considered by the
12 department for placement in a special alternative incarceration
13 unit established under section 3 of the special alternative
14 incarceration act, 1988 PA 287, MCL 798.13, if the prisoner meets
15 the eligibility requirements of subsections (2) and (3). For a
16 prisoner committed to the jurisdiction of the department on or
17 after March 19, 1992, the department shall determine before the
18 prisoner leaves the reception center whether the prisoner is
19 eligible for placement in a special alternative incarceration unit,
20 although actual placement may take place at a later date. A
21 determination of eligibility does not guarantee placement in a
22 unit.

23 (2) To be eligible for placement in a special alternative
24 incarceration unit, the prisoner shall meet all of the following
25 requirements:

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

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

4 (ii) 36 months or less for any other crime.

5 (b) The prisoner is physically able to participate in the
6 program.

7 (c) The prisoner does not appear to have any mental disability
8 that would prevent participation in the program.

9 (d) The prisoner is serving his or her first or second prison
10 sentence.

11 (e) At the time of sentencing, the judge did not prohibit
12 participation in the program in the judgment of sentence.

13 (f) The prisoner is otherwise suitable for the program, as
14 determined by the department.

15 (g) The prisoner has not served, and is not serving, a
16 sentence for any of the following crimes:

17 (i) A violation of section 11, 49, 80, 83, 89, 91, 157b, 158,
18 207, 260, 316, 317, 327, 328, 335a, 338, 338a, 338b, 349, 349a,
19 350, 422, 436, 511, 520b, 529, 529a, 531, or 544 of the Michigan
20 penal code, 1931 PA 328, MCL 750.11, 750.49, 750.80, 750.83,
21 750.89, 750.91, 750.157b, 750.158, 750.207, 750.260, 750.316,
22 750.317, 750.327, 750.328, 750.335a, 750.338, 750.338a, 750.338b,
23 750.349, 750.349a, 750.350, 750.422, 750.436, 750.511, 750.520b,
24 750.529, 750.529a, 750.531, and 750.544.

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

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

3 (iv) A violation of section 86, 112, 136b, 193, 195, 213, 319,
4 321, 329, or 397 of the Michigan penal code, 1931 PA 328, MCL
5 750.86, 750.112, 750.136b, 750.193, 750.195, 750.213, 750.319,
6 750.321, 750.329, and 750.397.

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

8 (vi) An attempt to commit a crime described in subparagraphs
9 (i) to (v).

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

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

16 (3) A prisoner who is serving a sentence for a violation of
17 section 7401 or 7403 of the public health code, 1978 PA 368, MCL
18 333.7401 and 333.7403, and who has previously been convicted for a
19 violation of section 7401 or 7403(2)(a), (b), or (e) of the public
20 health code, 1978 PA 368, MCL 333.7401 and 333.7403, is not
21 eligible for placement in a special alternative incarceration unit
22 until after he or she has served the equivalent of the mandatory
23 minimum sentence prescribed by statute for that violation.

24 (4) If the sentencing judge prohibited a prisoner's
25 participation in the special alternative incarceration program in
26 the judgment of sentence, that prisoner shall not be placed in a
27 special alternative incarceration unit. If the prisoner is serving

1 his or her first prison sentence and the sentencing judge permitted
2 the prisoner's participation in the special alternative
3 incarceration program in the judgment of sentence, that prisoner
4 may be placed in a special alternative incarceration unit if the
5 department determines that the prisoner also meets the requirements
6 of subsections (2) and (3). If the prisoner is serving his or her
7 first prison sentence and the sentencing judge neither prohibited
8 nor permitted a prisoner's participation in the special alternative
9 incarceration program in the judgment of sentence, or if the
10 prisoner is serving his or her second prison sentence regardless of
11 whether or not the judge permitted the prisoner's participation in
12 the program, and the department determines that the prisoner meets
13 the eligibility requirements of subsections (2) and (3), the
14 department shall notify the judge or the judge's successor, the
15 prosecuting attorney for the county in which the prisoner was
16 sentenced, and any victim of the crime for which the prisoner was
17 committed if the victim has submitted to the department a written
18 request for any notification pursuant to section 19(1) of the
19 William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL
20 780.769, of the proposed placement of the prisoner in the special
21 alternative incarceration unit. If the prisoner is serving his or
22 her first prison sentence, the notices shall be sent not later than
23 30 days before placement is intended to occur. If the prisoner is
24 serving his or her second prison sentence, the notices shall be
25 sent not later than 45 days before the placement is intended to
26 occur. The department shall not place the prisoner in a special
27 alternative incarceration unit unless the sentencing judge, or the

1 judge's successor, notifies the department, in writing, that he or
2 she does not object to the proposed placement. In making the
3 decision on whether or not to object, the judge, or judge's
4 successor, shall review any impact statement submitted pursuant to
5 section 14 of the William Van Regenmorter crime victim's rights
6 act, 1985 PA 87, MCL 780.764, by the victim or victims of the crime
7 of which the prisoner was convicted.

8 (5) Notwithstanding subsection (4), a prisoner shall not be
9 placed in a special alternative incarceration unit unless the
10 prisoner consents to that placement and agrees that the department
11 may suspend or restrict privileges generally afforded other
12 prisoners including, but not limited to, the areas of visitation,
13 property, mail, publications, commissary, library, and telephone
14 access. However, the department may not suspend or restrict the
15 prisoner's access to the prisoner grievance system.

16 (6) Beginning September 30, 2008, and notwithstanding
17 subsections (4) and (5), a prisoner shall not be placed in a
18 special alternative incarceration unit unless all of the following
19 conditions are met for the prisoner at the special alternative
20 incarceration unit:

21 (a) Upon entry into the special alternative incarceration
22 unit, a validated risk and need assessment from which a prisoner-
23 specific transition accountability plan and prisoner-specific
24 programming during program enrollment are utilized.

25 (b) Interaction with community-based service providers through
26 established prison in-reach services from the community to which
27 the prisoner will return is utilized.

1 (c) Prisoner discharge planning is utilized.

2 (d) Community follow-up services are utilized.

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

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

25 (9) The parole board may suspend or revoke parole for any
26 prisoner paroled under this section subject to sections 39a and
27 40a. ~~For a prisoner other than a prisoner subject to disciplinary~~

1 ~~time, if~~ **IF** parole is revoked before the expiration of the
2 prisoner's minimum sentence, less ~~disciplinary credits~~ **GOOD TIME**,
3 the parole board shall forfeit, pursuant to section 33(13) of 1893
4 PA 118, MCL 800.33, all ~~disciplinary credits that were~~ **GOOD TIME**
5 accumulated during special alternative incarceration, and the
6 prisoner shall be considered for parole pursuant to section 35.

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

11 (11) The department shall contract annually for third party
12 evaluations that report on both of the following:

13 (a) The implementation of the requirements of subsection (6).

14 (b) The success of the special alternative incarceration
15 program as revised under subsection (6), as evidenced by the extent
16 to which participants subsequently violate the conditions of their
17 parole, have their orders of parole revoked, or revictimize as
18 evidenced by being arrested or convicted for new offenses,
19 absconding from parole, or having outstanding warrants.

20 (12) Each prisoner or probationer placed in the special
21 alternative incarceration program shall fully participate in the
22 Michigan prisoner reentry initiative not later than the following
23 date, as applicable:

24 (a) Each prisoner serving his or her second prison sentence
25 shall participate not later than June 1, 2008.

26 (b) Each prisoner serving his or her first prison sentence
27 shall participate not later than August 1, 2008.

1 (c) Each probationer shall participate not later than
2 September 1, 2008.

3 (13) This section is repealed effective September 30, 2009.

4 Sec. 35. (1) The release of a prisoner on parole shall be
5 granted solely upon the initiative of the parole board. The parole
6 board may grant a parole without interviewing the prisoner.
7 ~~However, beginning on the date on which the administrative rules~~
8 ~~prescribing parole guidelines pursuant to section 33e(5) take~~
9 ~~effect~~ **JANUARY 26, 1996**, the parole board may grant a parole
10 without interviewing the prisoner only if, after evaluating the
11 prisoner according to the parole guidelines, the parole board
12 determines that the prisoner has a high probability of being
13 paroled and the parole board therefore intends to parole the
14 prisoner. Except as provided in subsection (2), a prisoner shall
15 not be denied parole without an interview before 1 member of the
16 parole board. The interview shall be conducted at least 1 month
17 before the expiration of the prisoner's minimum sentence less
18 applicable good time. ~~and disciplinary credits for a prisoner~~
19 ~~eligible for good time and disciplinary credits, or at least 1~~
20 ~~month before the expiration of the prisoner's minimum sentence for~~
21 ~~a prisoner subject to disciplinary time.~~ The parole board shall
22 consider any statement made to the parole board by a crime victim
23 under the **WILLIAM VAN REGENMORTER** crime victim's rights act, 1985
24 PA 87, MCL 780.751 to 780.834, or under any other provision of law.
25 The parole board shall not consider any of the following factors in
26 making a parole determination:

27 (a) A juvenile record that a court has ordered the department

1 to expunge.

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

8 (2) Beginning ~~on the date on which the administrative rules~~
9 ~~prescribing the parole guidelines take effect pursuant to section~~
10 ~~33e(5)~~ **JANUARY 26, 1996**, if, after evaluating a prisoner according
11 to the parole guidelines, the parole board determines that the
12 prisoner has a low probability of being paroled and the parole
13 board therefore does not intend to parole the prisoner, the parole
14 board shall not be required to interview the prisoner before
15 denying parole to the prisoner.

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

18 (a) A prisoner's marital history.

19 (b) Prior arrests not resulting in conviction or adjudication
20 of delinquency.

21 (4) If an interview is to be conducted, the prisoner shall be
22 sent a notice of intent to conduct an interview at least 1 month
23 before the date of the interview. The notice shall state the
24 specific issues and concerns that shall be discussed at the
25 interview and that may be a basis for a denial of parole. A denial
26 of parole shall not be based on reasons other than those stated in
27 the notice of intent to conduct an interview except for good cause

1 stated to the prisoner at or before the interview and in the
2 written explanation required by subsection (12). This subsection
3 does not apply until April 1, 1983.

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

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

21 (7) At least 90 days before the expiration of the prisoner's
22 minimum sentence less applicable good time and ~~disciplinary credits~~
23 ~~for a prisoner eligible for good time or disciplinary credits, or~~
24 ~~at least 90 days before the expiration of the prisoner's minimum~~
25 ~~sentence for a prisoner subject to disciplinary time, or~~ **90 DAYS**
26 **BEFORE** the expiration of a 12-month continuance, ~~for any prisoner,~~
27 a parole eligibility report shall be prepared by appropriate

1 institutional staff. The parole eligibility report shall be
2 considered pertinent information for purposes of subsection (5).
3 The report shall include all of the following:

4 (a) A statement of all major misconduct charges of which the
5 prisoner was found guilty and the punishment served for the
6 misconduct.

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

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

10 (d) Whether the prisoner fully cooperated with the state by
11 providing complete financial information as required under section
12 3a of the state correctional facility reimbursement act, 1935 PA
13 253, MCL 800.403a.

14 ~~—— (e) For a prisoner subject to disciplinary time, a statement~~
15 ~~of all disciplinary time submitted for the parole board's~~
16 ~~consideration pursuant to section 34 of 1993 PA 118, MCL 800.34.~~

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

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

24 (10) The parole board may grant a medical parole for a
25 prisoner determined to be physically or mentally incapacitated. A
26 decision to grant a medical parole shall be initiated upon the
27 recommendation of the bureau of health care services and shall be

1 reached only after a review of the medical, institutional, and
2 criminal records of the prisoner.

3 (11) The department shall submit a petition to the appropriate
4 court under section 434 of the mental health code, 1974 PA 258, MCL
5 330.1434, for any prisoner being paroled or being released after
6 serving his or her maximum sentence whom the department considers
7 to be a person requiring treatment. The parole board shall require
8 mental health treatment as a special condition of parole for any
9 parolee whom the department has determined to be a person requiring
10 treatment whether or not the petition filed for that prisoner is
11 granted by the court. As used in this subsection, "person requiring
12 treatment" means that term as defined in section 401 of the mental
13 health code, 1974 PA 258, MCL 330.1401.

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

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

22 Sec. 36. (1) All paroles shall be ordered by the parole board
23 and shall be signed by the chairperson. Written notice of the order
24 shall be given to the sheriff or other police officer of the
25 municipality or county in which the prisoner was convicted, and to
26 the sheriff or other local police officer of the municipality or
27 county to which the paroled prisoner is sent.

1 (2) A parole order may be rescinded at the discretion of the
2 parole board for cause before the prisoner is released on parole. A
3 parole shall not be revoked unless an interview with the prisoner
4 is conducted by 1 member of the parole board. The purpose of the
5 interview is to consider and act upon information received by the
6 board after the original parole release decision. A revocation
7 interview shall be conducted within 45 days after receiving the new
8 information. At least 10 days before the interview, the parolee
9 shall receive a copy or summary of the new evidence that is the
10 basis for the interview.

11 (3) A parole order may be amended at the discretion of the
12 parole board for cause. An amendment to a parole order shall be in
13 writing and is not effective until notice of the amendment is given
14 to the parolee.

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

19 (5) The parole order shall contain a condition to pay
20 restitution to the victim of the prisoner's crime or the victim's
21 estate if the prisoner was ordered to make restitution pursuant to
22 the William Van Regenmorter crime victim's rights act, 1985 PA 87,
23 MCL 780.751 to 780.834, or the code of criminal procedure, 1927 PA
24 175, MCL 760.1 to 777.69.

25 (6) The parole order shall contain a condition requiring the
26 parolee to pay a parole supervision fee as prescribed in section
27 36a.

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

4 (8) The parole order shall contain a condition requiring the
5 parolee to pay the minimum state cost prescribed by section 1j of
6 chapter IX of the code of criminal procedure, 1927 PA 175, MCL
7 769.1j, if the minimum state cost has not been paid.

8 (9) If the parolee is required to be registered under the sex
9 offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, the
10 parole order shall contain a condition requiring the parolee to
11 comply with that act.

12 (10) If a prisoner convicted of violating or conspiring to
13 violate section 7401(2)(a)(i) or (ii) or 7403(2)(a)(i) or (ii) of the
14 public health code, 1978 PA 368, MCL 333.7401 and 333.7403, is
15 released on parole, the parole order shall contain a notice that if
16 the parolee violates or conspires to violate article 7 of the
17 public health code, 1978 PA 368, MCL 333.7101 to 333.7545, and that
18 violation or conspiracy to violate is punishable by imprisonment
19 for 4 or more years, or commits a violent felony during his or her
20 release on parole, parole shall be revoked.

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

1 (11) ~~(12)~~—The parole order shall contain a condition requiring
2 the parolee to pay the following amounts owed by the prisoner, if
3 applicable:

4 (a) The balance of filing fees and costs ordered to be paid
5 under section 2963 of the revised judicature act of 1961, 1961 PA
6 236, MCL 600.2963.

7 (b) The balance of any filing fee ordered to be paid by a
8 federal court under section 1915 of title 28 of the United States
9 Code, 28 USC 1915 and any unpaid order of costs assessed against
10 the prisoner.

11 (12) ~~(13)~~—In each case in which payment of restitution is
12 ordered as a condition of parole, a parole officer assigned to a
13 case shall review the case not less than twice yearly to ensure
14 that restitution is being paid as ordered. The final review shall
15 be conducted not less than 60 days before the expiration of the
16 parole period. If the parole officer determines that restitution is
17 not being paid as ordered, the parole officer shall file a written
18 report of the violation with the parole board on a form prescribed
19 by the parole board. The report shall include a statement of the
20 amount of arrearage and any reasons for the arrearage known by the
21 parole officer. The parole board shall immediately provide a copy
22 of the report to the court, the prosecuting attorney, and the
23 victim.

24 (13) ~~(14)~~—If a parolee is required to register pursuant to the
25 sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736,
26 the parole officer shall register the parolee as provided in that
27 act.

1 (14) ~~(15)~~ Beginning August 28, 2006, if a parolee convicted of
2 violating or conspiring to violate section 520b or 520c of the
3 Michigan penal code, 1931 PA 328, MCL 750.520b and 750.520c, other
4 than a parolee who is subject to lifetime electronic monitoring
5 under section 85, is placed on parole, the parole board may require
6 that the parolee be subject to electronic monitoring. The
7 electronic monitoring required under this subsection shall be
8 conducted in the same manner, and shall be subject to the same
9 requirements, as is described in section 85 of this act and section
10 520n(2) of the Michigan penal code, 1931 PA 328, MCL 750.520n,
11 except as follows:

12 (a) The electronic monitoring shall continue only for the
13 duration of the term of parole.

14 (b) A violation by the parolee of any requirement prescribed
15 in section 520n(2) (a) to (c) is a violation of a condition of
16 parole, not a felony violation.

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

25 (16) ~~(17)~~ Each prisoner who is required to be registered under
26 the sex offenders registration act, 1994 PA 295, MCL 28.721 to
27 28.736, before being released on parole or being released upon

1 completion of his or her maximum sentence, shall provide to the
2 department notice of the location of his or her proposed place of
3 residence or domicile. The department then shall forward that
4 notice of location to the appropriate law enforcement agency as
5 required under section 5(2) of the sex offenders registration act,
6 1994 PA 295, MCL 28.725. A prisoner who refuses to provide notice
7 of the location of his or her proposed place of residence or
8 domicile or knowingly provides an incorrect notice of the location
9 of his or her proposed place of residence or domicile under this
10 subsection is guilty of a felony punishable by imprisonment for not
11 more than 4 years or a fine of not more than \$2,000.00, or both.

12 (17) ~~(18)~~—If a prisoner is serving a sentence for violating
13 section 411i of the Michigan penal code, 1931 PA 328, MCL 750.411i
14 (aggravated stalking), and if a victim of that crime has registered
15 to receive notices about that prisoner under the William Van
16 Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to
17 780.834, the parole order for that prisoner shall require that the
18 prisoner's location be monitored by a global positioning monitoring
19 system during the entire period of the prisoner's parole. If, at
20 the time a prisoner described in this subsection is paroled, no
21 victim of the crime has registered to receive notices about that
22 prisoner under the William Van Regenmorter crime victim's rights
23 act, 1985 PA 87, MCL 780.751 to 780.834, but a victim of the crime
24 subsequently registers to receive those notices, the prisoner's
25 order of parole shall immediately be modified to require that the
26 prisoner's location be monitored by a global positioning system
27 during the balance of the period of that prisoner's parole. As used

1 in this subsection, "global positioning monitoring system" means a
2 system that electronically determines and reports the location of
3 an individual by means of an ankle bracelet transmitter or similar
4 device worn by the individual, which transmits latitude and
5 longitude data to monitoring authorities through global positioning
6 satellite technology but does not include any radio frequency
7 identification technology, global positioning technology, or
8 similar technology that would be implanted in the parolee or would
9 otherwise violate the corporeal body of the parolee.

10 (18) ~~(19)~~As used in this section, "violent felony" means an
11 offense against a person in violation of section 82, 83, 84, 86,
12 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d,
13 520e, 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA
14 328, MCL 750.82, 750.83, 750.84, 750.86, 750.87, 750.88, 750.89,
15 750.316, 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397,
16 750.520b, 750.520c, 750.520d, 750.520e, 750.520g, 750.529,
17 750.529a, and 750.530.

18 Sec. 51. (1) There is created within the department a hearings
19 division. The division is under the direction and supervision of
20 the hearings administrator who is appointed by the director of the
21 department.

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

27 (a) An infraction of a prison rule that may result in punitive

1 segregation, ~~loss of disciplinary credits,~~ or the loss of good
2 time.

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

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

8 (d) Visitor restrictions.

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

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

13 (3) ~~(4)~~ The hearings division is not responsible for a
14 prisoner hearing that is conducted for prisoners transferred under
15 section 11a to an institution of another state pursuant to the
16 interstate corrections compact.

17 (4) ~~(5)~~ The hearings division is not responsible for a
18 prisoner hearing that is conducted as a result of a minor
19 misconduct charge that would not cause a loss of good time ~~or~~
20 ~~disciplinary credits,~~ or result in placement in punitive
21 segregation.

22 (5) ~~(6)~~ Each hearings officer of the department is under the
23 direction and supervision of the hearings division. Each hearings
24 officer hired by the department after October 1, 1979, ~~shall be an~~
25 attorney.

26 Sec. 65. (1) Under rules promulgated by the director of the
27 department, the assistant director in charge of the bureau of

1 correctional facilities, except as otherwise provided in this
2 section, may cause the transfer or ~~re-transfer~~ **RETRANSFER** of a
3 prisoner from a correctional facility to which committed to any
4 other correctional facility, or temporarily to a state institution
5 for medical or surgical treatment. In effecting a transfer, the
6 assistant director of the bureau of correctional facilities may
7 utilize the services of an executive or employee within the
8 department and of a law enforcement officer of the state.

9 ~~—— (2) A prisoner who is subject to disciplinary time and is
10 committed to the jurisdiction of the department shall be confined
11 in a secure correctional facility for the duration of his or her
12 minimum sentence, except for periods when the prisoner is away from
13 the secure correctional facility while being supervised by an
14 employee of the department or by an employee of a private vendor
15 that operates a youth correctional facility under section 20g for 1
16 of the following purposes:~~

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

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

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

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

22 (2) ~~(3)~~ As used in this section, "offender" means a citizen of
23 the United States or a foreign country who has been convicted of a
24 crime and been given a sentence in a country other than the country
25 of which he or she is a citizen. If a treaty is in effect between
26 the United States and a foreign country, which provides for the
27 transfer of offenders from the jurisdiction of 1 of the countries

1 to the jurisdiction of the country of which the offender is a
2 citizen, and if the offender requests the transfer, the governor of
3 this state or a person designated by the governor may give the
4 approval of this state to a transfer of an offender, if the
5 conditions of the treaty are satisfied.

6 (3) ~~(4)~~—Not less than 45 days before approval of a transfer
7 pursuant to subsection ~~(3)~~—(2) from this state to another country,
8 the governor, or the governor's designee, shall notify the
9 sentencing judge and the prosecuting attorney of the county having
10 original jurisdiction, or their successors in office, of the
11 request for transfer. The notification shall indicate any name
12 changes of the offender subsequent to sentencing. Within 20 days
13 after receiving such notification, the judge or prosecutor may send
14 to the governor, or the governor's designee, information about the
15 criminal action against the offender or objections to the transfer.
16 Objections to the transfer shall not preclude approval of the
17 transfer.

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

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

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

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

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

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

14 (b) Obtain medical services not otherwise available to a
15 prisoner housed in a state correctional facility.

16 (c) Work at paid employment, participate in a training or
17 educational program, or participate in a community residential drug
18 treatment program while continuing as a prisoner housed on a
19 voluntary basis at a community corrections center or in a community
20 residential home.

21 (2) The director shall promulgate rules to implement this
22 section.

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

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

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

11 (5) ~~(6)~~ However, notwithstanding ~~subsections~~ **SUBSECTION** (4),
12 ~~or (5),~~ if the reason for the extension is to visit a critically
13 ill relative, attend the funeral of a relative, or obtain medical
14 services not otherwise available, the director may allow the
15 extension under escort as provided in subsection (1).

16 (6) ~~(7)~~ A prisoner serving a sentence for murder in the first
17 degree is not eligible for the extensions of confinement under this
18 section until a parole release date is established by the parole
19 board and in no case before serving 15 calendar years with a good
20 institutional adjustment.

21 (7) ~~(8)~~ A prisoner who is convicted of a crime of violence or
22 any assaultive crime, and whose minimum sentence imposed for the
23 crime is 10 years or more, shall not be placed in a community
24 residential home during any portion of his or her sentence.

25 (8) ~~(9)~~ As used in this section:

26 (a) "Community corrections center" means a facility either
27 contracted for or operated by the department in which a security

1 staff is on duty 7 days per week, 24 hours per day.

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

8 (c) "State correctional facility" means a facility owned or
9 leased by the department. State correctional facility does not
10 include a community corrections center or community residential
11 home.

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

14 Enacting section 2. This amendatory act does not take effect
15 unless all of the following bills of the 95th Legislature are
16 enacted into law:

17 (a) Senate Bill No. ____ or House Bill No. 4498 (request no.
18 01437'09 a).

19 (b) Senate Bill No. ____ or House Bill No. 4499 (request no.
20 01437'09 b).