

**SUBSTITUTE FOR  
HOUSE BILL NO. 5174**

A bill to amend 1953 PA 232, entitled  
"Corrections code of 1953,"  
by amending sections 20g and 20i (MCL 791.220g and 791.220i),  
section 20g as amended by 2000 PA 211 and section 20i as added by  
2006 PA 351.

**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~~  
3 ~~the jurisdiction of the department who are 19 years of age or less.~~  
4 ~~If the department establishes or contracts with a private vendor~~  
5 ~~for the operation of a youth correctional facility, following~~  
6 ~~intake processing in a department operated facility, the department~~  
7 ~~shall house all male prisoners who are 16 years of age or less at~~  
8 ~~the youth correctional facility unless the department determines~~  
9 ~~that the prisoner should be housed at a different facility for~~

~~reasons of security, safety, or because of the prisoner's specialized physical or mental health care needs.~~

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

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

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

~~—— (5) The department may establish and operate the youth correctional facility or may contract on behalf of the state with a private vendor for the construction or operation, or both, of the youth correctional facility. If the department contracts with a private vendor to construct, rehabilitate, develop, renovate, or operate any existing or anticipated facility pursuant to this section, the department shall require a written certification from the private vendor regarding all of the following:~~

~~—— (a) If practicable to efficiently and effectively complete the project, the private vendor shall follow a competitive bid process for the construction, rehabilitation, development, or renovation of the facility, and this process shall be open to all Michigan~~

~~residents and firms. The private vendor shall not discriminate against any contractor on the basis of its affiliation or nonaffiliation with any collective bargaining organization.~~

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

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

~~—— (6) If the department contracts with a private vendor for the operation of the youth correctional facility, the department shall require by contract that the personnel employed by the private vendor in the operation of the facility be certified as correctional officers to the same extent as would be required if those personnel were employed in a correctional facility operated by the department. The department also shall require by contract that the private vendor meet requirements specified by the department regarding security, protection of the public, inspections by the department, programming, liability and insurance, conditions of confinement, educational services required under subsection (11), and any other issues the department considers necessary for the operation of the youth correctional facility. The department shall also require that the contract include provisions to protect the public's interest if the private vendor defaults on the contract. Before finalizing a contract with a private vendor for the construction or operation of the youth correctional facility, the department shall submit the proposed contract to the standing committees of the senate and the house of~~

~~representatives having jurisdiction of corrections issues, the  
corrections subcommittees of the standing committees on  
appropriations of the senate and the house of representatives, and,  
with regard to proposed construction contracts, the joint committee  
on capital outlay. A contract between the department and a private  
vendor for the construction or operation of the youth correctional  
facility shall be contingent upon appropriation of the required  
funding. If the department contracts with a private vendor under  
this section, the selection of that private vendor shall be by  
open, competitive bid.~~

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

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

~~—— (a) Calculate inmate release and parole eligibility dates.~~

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

~~—— (c) Approve inmates for extensions of limits of confinement.~~

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

~~—— (10) Once each year, the department shall report on the  
operation of the facility. Copies of the report shall be submitted~~

~~to the chairpersons of the house and senate committees responsible for legislation on corrections or judicial issues, and to the clerk of the house of representatives and the secretary of the senate.~~

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

~~—— (a) The department or private vendor shall require that a prisoner whose academic achievement level is not sufficient to allow the prisoner to participate effectively in a program leading to the attainment of a GED certificate participate in classes that will prepare him or her to participate effectively in the GED program, and shall provide those classes in the facility.~~

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

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

~~—— (13) A private vendor that operates the youth correctional facility under a contract with the department shall provide written notice of its intention to discontinue its operation of the~~

~~facility. This subsection does not authorize or limit liability for a breach or default of contract. If the reason for the discontinuance is that the private vendor intends not to renew the contract, the notice shall be delivered to the director of the department at least 1 year before the contract expiration date. If the discontinuance is for any other reason, the notice shall be delivered to the director of the department at least 6 months before the date on which the private vendor will discontinue its operation of the facility. This subsection does not authorize or limit liability for a breach or default of contract.~~

(1) THE DEPARTMENT MAY CONTRACT WITH ANY PRIVATE CORRECTIONAL FACILITY SERVICE PROVIDER, THROUGH A COMPETITIVE BIDDING PROCESS, FOR THE HOUSING AND MANAGEMENT OF THE DEPARTMENT'S INMATES IF THE CONTRACT WILL RESULT IN AN ANNUAL COST SAVINGS OF AT LEAST 10%. IF THE DEPARTMENT CONTRACTS FOR THE HOUSING AND MANAGEMENT OF DEPARTMENT INMATES, THE DEPARTMENT SHALL REQUIRE A WRITTEN CERTIFICATION FROM THE PRIVATE VENDOR THAT THE PRIVATE VENDOR SHALL NOT DISCRIMINATE AGAINST ANY CONTRACTOR ON THE BASIS OF ITS AFFILIATION OR NONAFFILIATION WITH ANY COLLECTIVE BARGAINING ORGANIZATION AND SHALL MAKE A GOOD-FAITH EFFORT TO EMPLOY, IF QUALIFIED, MICHIGAN RESIDENTS AT THE FACILITY.

(2) THE CONTRACT BETWEEN THE DEPARTMENT AND THE PRIVATE VENDOR SHALL BE FOR AN INITIAL TERM OF 5 YEARS, SUBJECT TO RENEWALS BY MUTUAL AGREEMENT OF 2 YEARS EACH. THE CONTRACT SHALL REQUIRE THAT THE PERSONNEL EMPLOYED BY THE PRIVATE VENDOR IN THE OPERATION OF THE FACILITY BE CERTIFIED AS CORRECTIONAL OFFICERS TO THE SAME EXTENT AS WOULD BE REQUIRED IF THOSE PERSONNEL WERE EMPLOYED IN A

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1 CORRECTIONAL FACILITY OPERATED BY THE DEPARTMENT. THE DEPARTMENT

2 ALSO SHALL REQUIRE BY CONTRACT THAT THE PRIVATE VENDOR MEET

3 REQUIREMENTS SPECIFIED BY THE DEPARTMENT REGARDING SECURITY,

4 PROTECTION OF THE PUBLIC, INSPECTIONS BY THE DEPARTMENT,

5 PROGRAMMING, LIABILITY AND INSURANCE, CONDITIONS OF CONFINEMENT,

6 EDUCATIONAL SERVICES, AND ANY OTHER ISSUES THE DEPARTMENT CONSIDERS

7 NECESSARY FOR THE OPERATION OF THE CORRECTIONAL FACILITY. A

8 CONTRACT BETWEEN THE DEPARTMENT AND A PRIVATE VENDOR FOR THE

9 OPERATION OF THE CORRECTIONAL FACILITY SHALL BE CONTINGENT UPON

10 APPROPRIATION OF THE REQUIRED FUNDING.

11 (3) THE PRIVATE VENDOR OPERATING THE CORRECTIONAL FACILITY

12 UNDER A CONTRACT UNDER THIS SECTION SHALL NOT DO ANY OF THE

13 FOLLOWING, UNLESS DIRECTED TO DO SO BY DEPARTMENT POLICY:

14 (A) CALCULATE INMATE RELEASE AND PAROLE ELIGIBILITY DATES.

15 (B) AWARD GOOD TIME OR DISCIPLINARY CREDITS, OR IMPOSE

16 DISCIPLINARY TIME.

17 (C) APPROVE INMATES FOR EXTENSIONS OF LIMITS OF CONFINEMENT.

18 (4) THE CORRECTIONAL FACILITY SHALL BE OPEN TO VISITS DURING

19 ALL BUSINESS HOURS AND DURING NONBUSINESS HOURS, UNLESS AN

20 EMERGENCY PREVENTS IT, BY ANY ELECTED STATE SENATOR OR STATE

21 REPRESENTATIVE.

22 (5) ONCE EACH YEAR, THE DEPARTMENT SHALL REPORT ON THE

23 OPERATION OF THE FACILITY. COPIES OF THE REPORT SHALL BE SUBMITTED

24 TO THE CHAIRPERSONS OF THE HOUSE AND SENATE COMMITTEES RESPONSIBLE

25 FOR LEGISLATION ON CORRECTIONS OR JUDICIAL ISSUES[, ] THE CLERK

26 OF THE HOUSE OF REPRESENTATIVES AND THE SECRETARY OF THE SENATE[, THE  
COUNTY BOARD OF COMMISSIONERS OF THE COUNTY IN WHICH THE FACILITY IS  
LOCATED, AND TO THE LEGISLATIVE BODY OF ANY OTHER LOCAL UNIT OF  
GOVERNMENT IN WHICH THE FACILITY IS LOCATED. THE DEPARTMENT SHALL ALSO  
MAINTAIN A COPY OF THE REPORT ON THE DEPARTMENT'S OFFICIAL WEBSITE.

(6) A CITIZENS ADVISORY COUNCIL SHALL BE CREATED IN THE COUNTY IN  
WHICH A CORRECTIONAL FACILITY IS OPERATED BY A PRIVATE VENDOR. THE  
PURPOSE OF THE ADVISORY COUNCIL SHALL BE TO ADDRESS CITIZEN COMPLAINTS

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AND LOCAL CONCERNS REGARDING THE FACILITY AND TO RELATE THOSE COMPLAINTS  
AND CONCERNS TO THE PRIVATE VENDOR AND TO THE DEPARTMENT. THE COUNCIL  
SHALL CONSIST OF THE FOLLOWING MEMBERS:

(A) THE COUNTY SHERIFF OR HIS OR HER DESIGNATED REPRESENTATIVE.

(B) IF THE FACILITY IS LOCATED IN WHOLE OR IN PART IN A LOCAL UNIT  
OF GOVERNMENT HAVING AN ORGANIZED POLICE DEPARTMENT, THE POLICE CHIEF OF  
THAT LOCAL UNIT OF GOVERNMENT OR HIS OR HER DESIGNATED REPRESENTATIVE.

(C) THE FIRE CHIEF OR HIS OR HER DESIGNATED REPRESENTATIVE OF THE  
DEPARTMENT PROVIDING FIRE PROTECTION SERVICES WITHIN THE LOCAL UNIT OF  
GOVERNMENT IN WHICH THE CORRECTIONAL FACILITY IS LOCATED.

(D) THREE MEMBERS APPOINTED BY THE GOVERNING BODY OF THE LOCAL UNIT  
OF GOVERNMENT IN WHICH THE FACILITY IS LOCATED. OF THE MEMBERS APPOINTED  
UNDER THIS SUBDIVISION, 1 SHALL BE APPOINTED FOR A TERM OF 1 YEAR AND 2  
SHALL BE APPOINTED FOR A TERM OF 2 YEARS. EACH SUBSEQUENT APPOINTMENT  
SHALL BE FOR A TERM OF 2 YEARS.

(E) TWO MEMBERS APPOINTED BY THE SCHOOL DISTRICT IN WHICH THE  
FACILITY IS LOCATED. OF THE MEMBERS APPOINTED UNDER THIS SUBDIVISION, 1  
SHALL BE APPOINTED FOR AN INITIAL TERM OF 1 YEAR AND 1 SHALL BE APPOINTED  
FOR A TERM OF 2 YEARS. EACH SUBSEQUENT APPOINTMENT SHALL BE FOR A TERM OF  
2 YEARS.

(7) MEETINGS OF THE CITIZENS ADVISORY COUNCIL SHALL BE HELD IN  
COMPLIANCE WITH THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.  
A DOCUMENT PREPARED, OWNED, USED, IN THE POSSESSION OF, OR RETAINED BY  
THE CITIZENS ADVISORY COUNCIL IN THE PERFORMANCE OF AN OFFICIAL FUNCTION  
IS SUBJECT TO THE FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO  
15.246.]

27 Sec. 20i. (1) If the ~~Michigan youth~~ PRIVATE correctional



1 facility ~~established pursuant to~~ **DESCRIBED IN** section 20g in Webber  
2 township, Lake county, Michigan, is not utilized by the department  
3 for housing inmates or detainees under the jurisdiction of the  
4 department, the private vendor that operates ~~the Michigan youth~~  
5 **THAT** correctional facility may utilize the facility for housing,  
6 custody, and care of detainees or inmates from other local, state,  
7 or federal agencies, either by directly contracting with those  
8 local, state, or federal agencies or by having 1 or more local,  
9 state, or federal agencies enter into an interlocal agreement with  
10 Webber township, Lake county, or the county sheriff for Lake  
11 county, who in turn may contract with the private vendor for  
12 services to be provided under the terms of the interlocal  
13 agreement, subject to the requirements of this section. If all  
14 contractual factors regarding potential inmates or detainees are  
15 equal, the private vendor shall give preference to the admission of  
16 inmates or detainees sent from agencies within this state.

17 (2) Any contract under this section for the housing, custody,  
18 and care of detainees or inmates from other local, state, or  
19 federal agencies shall require all of the following:

20 (a) The private vendor that operates the facility shall do all  
21 of the following:

22 (i) Obtain accreditation of the facility by the American  
23 correctional association within 24 months after the private vendor  
24 commences operations at the facility and maintain that  
25 accreditation throughout the term of any contract for the use of  
26 the facility.

27 (ii) Operate the facility in compliance with the applicable

1 standards of the American correctional association.

2 (b) The personnel employed by the private vendor in the  
3 operation of the facility shall meet the employment and training  
4 requirements set forth in the applicable standards of the American  
5 correctional association, and also shall meet any higher training  
6 and employment standards that may be mandated under a contract  
7 between the private vendor and a local, state, or federal agency  
8 that sends inmates or detainees to the facility.

9 (c) Any serious incident that occurs at the facility shall be  
10 reported immediately to the sheriff of Lake county and the state  
11 police.

12 (3) An inmate or detainee housed at the facility shall not  
13 participate in work release, a work camp, or another similar  
14 program or activity occurring outside the secure perimeter of the  
15 facility **WITHOUT THE AUTHORIZATION OF THE DEPARTMENT.**

16 (4) The facility shall allow the presence of on-site monitors  
17 from any local, state, or federal agency that sends inmates or  
18 detainees to the facility, for the purpose of monitoring the  
19 conditions of confinement of those inmates or detainees. Whenever  
20 the private vendor submits a written report to a local, state, or  
21 federal agency that sends inmates or detainees to the facility, the  
22 private vendor shall send copies of the written report to the  
23 township supervisor for Webber township, the board of county  
24 commissioners for Lake county, the sheriff of Lake county, and the  
25 department.

26 (5) Personnel employed at the facility by the private vendor  
27 who have met the employment and training requirements set forth in

1 the applicable standards of the American correctional association  
2 have full authority to perform their duties and responsibilities  
3 under law, including, but not limited to, exercising the use of  
4 force in the same manner and to the same extent as would be  
5 authorized if those personnel were employed in a correctional  
6 facility operated by the department.

7 (6) A contract with a local, state, or federal agency that  
8 sends inmates or detainees to the facility shall not require,  
9 authorize, or imply a delegation of the authority or responsibility  
10 to the private vendor to do any of the following:

11 (a) Develop or implement procedures for calculating inmate  
12 release and parole eligibility dates or recommending the granting  
13 or denying of parole, although the private vendor may submit  
14 written reports that have been prepared in the ordinary course of  
15 business.

16 (b) Develop or implement procedures for calculating and  
17 awarding earned credits, including good time credits, disciplinary  
18 credits, or similar credits affecting the length of an inmate's  
19 incarceration, approving the type of work inmates may perform and  
20 the wage or earned credits, if any, that may be awarded to inmates  
21 engaging in that work, and granting, denying, or revoking earned  
22 credits.

23 (7) An inmate or detainee shall not be housed at the facility  
24 unless the security classification of the inmate or detainee, as it  
25 would be determined by the department if he or she were being  
26 housed in a state correctional facility, is level IV or below, and  
27 has never previously been above level IV.

1 (8) Inmates and detainees shall be transferred to and from the  
2 facility in a secure manner. Any inmate or detainee housed at the  
3 facility who was sent from another state, a local agency outside  
4 this state, or the federal government shall be returned to the  
5 agency that sent the inmate or detainee upon completion of the  
6 inmate's or detainee's term of incarceration in the facility and  
7 shall not be released from custody within this state.

8 (9) The department of corrections is not responsible for  
9 oversight of the facility. This state, or any department or agency  
10 of this state, is not civilly liable for damages arising out of the  
11 operation of the facility.

12 (10) As used in this section:

13 (a) "Facility" means the ~~former Michigan youth~~ **PRIVATELY OWNED**  
14 correctional facility described in subsection (1).

15 (b) "Security classification" means 1 of 6 levels of  
16 restrictiveness enforced in housing units at each state  
17 correctional facility, as determined by the department, with  
18 security level I being the least restrictive and security level VI  
19 being the most restrictive.

20 (c) "Serious incident" means a disturbance at the facility  
21 involving 5 or more inmates or detainees, a death of an inmate or  
22 detainee, a felony or attempted felony committed within the  
23 facility, or an escape or attempted escape from the facility.

24 Enacting section 1. This amendatory act does not take effect  
25 unless House Bill No. 5177 of the 96th Legislature is enacted into  
26 law.