

**STATE OF MICHIGAN
96TH LEGISLATURE
REGULAR SESSION OF 2012**

**Introduced by Reps. O'Brien, Outman, Shaughnessy, McMillin, Genetski, Kowall, Shirkey, Lori, Daley,
Damrow and Lund**

ENROLLED HOUSE BILL No. 4074

AN ACT to amend 1953 PA 232, entitled "An act to revise, consolidate, and codify the laws relating to probationers and probation officers, to pardons, reprieves, commutations, and paroles, to the administration of correctional institutions, correctional farms, and probation recovery camps, to prisoner labor and correctional industries, and to the supervision and inspection of local jails and houses of correction; to provide for the siting of correctional facilities; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are transferred by this act; to allow for the operation of certain facilities by private entities; to prescribe the powers and duties of certain other state departments and agencies; to provide for the creation of a local lockup advisory board; to provide for a lifetime electronic monitoring program; to prescribe penalties for the violation of the provisions of this act; to make certain appropriations; to repeal certain parts of this act on specific dates; and to repeal all acts and parts of acts inconsistent with the provisions of this act," by amending sections 35, 37, and 67 (MCL 791.235, 791.237, and 791.267), section 35 as amended by 1998 PA 315, section 37 as amended by 1994 PA 217, and section 67 as amended by 1996 PA 565, and by adding section 34c.

The People of the State of Michigan enact:

Sec. 34c. (1) The department, by contract or otherwise, shall assist prisoners with reentry into the community, including, but not limited to, doing both of the following:

(a) Assisting prisoners in obtaining the identification documents described in this section.

(b) Subject to the department's security needs, reasonably allowing prisoners to obtain the following identification documents before those prisoners are released on parole or discharged upon completion of their maximum sentences:

(i) Any of the identification documents that, in combination with the prisoner identification card issued under section 37(4), would satisfy the application requirements for obtaining an operator's license or state personal identification card as established by the secretary of state under section 307 of the Michigan vehicle code, 1949 PA 300, MCL 257.307, or section 1 of 1972 PA 222, MCL 28.291.

(ii) A social security card or social security number verification, if possible to obtain.

(2) A prisoner's refusal to obtain or attempt to obtain the documents identified in subsection (1)(b) may be included as part of the prisoner's parole eligibility report, as provided in section 35(7)(e).

(3) This section applies to all prisoners who are serving a sentence under the jurisdiction of the department after the effective date of the amendatory act that added this section who are eligible to obtain an operator's license under section 307 of the Michigan vehicle code, 1949 PA 300, MCL 257.307, or a state personal identification card under section 1 of 1972 PA 222, MCL 28.291.

(4) The department shall include in writing to each prisoner the information described in section 14(9)(b) of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.14, listing the identification documents referenced in subsection (1). For a prisoner who begins serving a sentence under the jurisdiction of the department after the effective date of the amendatory act that added this section, the department shall provide that written information during reception center processing. For any prisoner who is under the jurisdiction of the department on the effective date of the amendatory act that added this section, the department shall provide that written information as follows:

(a) For a prisoner with less than 1 year remaining before parole eligibility, within 90 days after that effective date.

(b) For any other prisoner, the information shall be given at the time the parole eligibility report is prepared.

(5) The department shall allow the secretary of state to have electronic access to prisoner information for the purpose of verifying the identity of prisoners who apply for driver licenses or state personal identification cards.

(6) The reentry success fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The department of corrections shall expend money from the reentry success fund, upon appropriation, only for the expenses of performing the activities required by this section.

Sec. 35. (1) The release of a prisoner on parole shall be granted solely upon the initiative of the parole board. The parole board may grant a parole without interviewing the prisoner. However, beginning January 26, 1996, the parole board may grant a parole without interviewing the prisoner only if, after evaluating the prisoner according to the parole guidelines, the parole board determines that the prisoner has a high probability of being paroled and the parole board therefore intends to parole the prisoner. Except as provided in subsection (2), a prisoner shall not be denied parole without an interview before 1 member of the parole board. The interview shall be conducted at least 1 month before the expiration of the prisoner's minimum sentence less applicable good time and disciplinary credits for a prisoner eligible for good time and disciplinary credits, or at least 1 month before the expiration of the prisoner's minimum sentence for a prisoner subject to disciplinary time. The parole board shall consider any statement made to the parole board by a crime victim under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, or under any other provision of law. The parole board shall not consider any of the following factors in making a parole determination:

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

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

(2) Beginning January 26, 1996, if, after evaluating a prisoner according to the parole guidelines, the parole board determines that the prisoner has a low probability of being paroled and the parole board therefore does not intend to parole the prisoner, the parole board is not required to interview the prisoner before denying parole to the prisoner.

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

(a) A prisoner's marital history.

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

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

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

(6) A prisoner may waive the right to an interview by 1 member of the parole board. The waiver of the right to be interviewed shall be given not more than 30 days after the notice of intent to conduct an interview is issued and shall be made in writing. During the interview held pursuant to a notice of intent to conduct an interview, the prisoner may be represented by an individual of his or her choice. The representative shall not be another prisoner or an attorney. A prisoner is not entitled to appointed counsel at public expense. The prisoner or representative may present relevant evidence in support of release.

(7) At least 90 days before the expiration of the prisoner's minimum sentence less applicable good time and disciplinary credits for a prisoner eligible for good time or disciplinary credits, or at least 90 days before the expiration of the prisoner's minimum sentence for a prisoner subject to disciplinary time, or the expiration of a 12-month continuance

for any prisoner, a parole eligibility report shall be prepared by appropriate institutional staff. The parole eligibility report shall be considered pertinent information for purposes of subsection (5). The report shall include all of the following:

- (a) A statement of all major misconduct charges of which the prisoner was found guilty and the punishment served for the misconduct.
- (b) The prisoner's work and educational record while confined.
- (c) The results of any physical, mental, or psychiatric examinations of the prisoner that may have been performed.
- (d) Whether the prisoner fully cooperated with the state by providing complete financial information as required under section 3a of the state correctional facility reimbursement act, 1935 PA 253, MCL 800.403a.
- (e) Whether the prisoner refused to attempt to obtain identification documents under section 34c, if applicable.
- (f) For a prisoner subject to disciplinary time, a statement of all disciplinary time submitted for the parole board's consideration under section 34 of 1893 PA 118, MCL 800.34.
- (8) The preparer of the report shall not include a recommendation as to release on parole.
- (9) Psychological evaluations performed at the request of the parole board to assist it in reaching a decision on the release of a prisoner may be performed by the same person who provided the prisoner with therapeutic treatment, unless a different person is requested by the prisoner or parole board.
- (10) The parole board may grant a medical parole for a prisoner determined to be physically or mentally incapacitated. A decision to grant a medical parole shall be initiated upon the recommendation of the bureau of health care services and shall be reached only after a review of the medical, institutional, and criminal records of the prisoner.
- (11) The department shall submit a petition to the appropriate court under section 434 of the mental health code, 1974 PA 258, MCL 330.1434, for any prisoner being paroled or being released after serving his or her maximum sentence whom the department considers to be a person requiring treatment. The parole board shall require mental health treatment as a special condition of parole for any parolee whom the department has determined to be a person requiring treatment whether or not the petition filed for that prisoner is granted by the court. As used in this subsection, "person requiring treatment" means that term as defined in section 401 of the mental health code, 1974 PA 258, MCL 330.1401.
- (12) When the parole board makes a final determination not to release a prisoner, the prisoner shall be provided with a written explanation of the reason for denial and, if appropriate, specific recommendations for corrective action the prisoner may take to facilitate release.
- (13) This section does not apply to the placement on parole of a person in conjunction with special alternative incarceration under section 34a(7).

Sec. 37. (1) When a prisoner is released upon parole, the department shall provide the prisoner with clothing and a nontransferable ticket to the place in which the paroled prisoner is to reside. At the discretion of the deputy director in charge of the field operations administration, the paroled prisoner may be advanced the expense of the transportation to the place of residence and a sum of money necessary for reasonable maintenance and subsistence for a 2-week period, as determined by the deputy director. A sum of money given under this section shall be repaid to the state by the paroled prisoner within 180 days after the money is received by the paroled prisoner.

(2) If a prisoner who is discharged without being paroled has less than \$75.00 in his or her immediate possession, has no visible means of support, and has conserved personal funds in a reasonable manner, the department shall furnish to that prisoner all of the following:

- (a) Clothing that is appropriate for the season.
- (b) A sum of \$75.00 including that amount already in the prisoner's possession.
- (c) Transportation to a place in this state where the prisoner will reside or work or to the place where the prisoner was convicted or sentenced.
- (3) When providing for transportation, the department shall do all of the following:
 - (a) Use the most economical available public transportation.
 - (b) Arrange for and purchase the prisoner's transportation ticket.
 - (c) Assume responsibility for delivering that prisoner to the site of departure and confirming the prisoner's departure from the site.
- (4) The department shall provide a prisoner identification card to each prisoner when he or she is released on parole or is released upon completion of his or her maximum sentence. The identification card shall include all of the following based upon all available information:
 - (a) The prisoner's photograph, taken every 3 years or upon significant appearance change, whichever occurs first.

(b) The prisoner's legal name as identified on the prisoner's birth certificate or on any 1 of the other citizenship identification documents specified by the secretary of state as being necessary to obtain an operator's license or state personal identification card, if those documents are available.

(c) The prisoner's date of birth.

(d) A statement as to whether the prisoner was placed on parole or discharged upon completion of his or her sentence.

(5) The cost of implementing this section shall be paid out of the general fund of the state.

Sec. 67. (1) Quarters for temporary confinement apart from those of regular inmates shall be provided for convicted prisoners upon commitment at each of the state correctional facilities, which the director shall designate as a reception center. Within 60 days after the arrival of a convicted prisoner at a state correctional facility, the classification committee shall make and complete a comprehensive study of the prisoner, including physical and psychiatric examinations, to ensure that the prisoner is confined in the state correctional facility suited to the type of rehabilitation required in his or her case. The warden of the state correctional facility shall deliver a report of the study of the classification committee to the deputy director of the correctional facilities administration, who shall, within 5 days after receipt of the report, execute an order to confine the prisoner in the state correctional facility determined as suitable by the deputy director.

(2) Immediately upon arrival at a reception center designated under subsection (1), each incoming prisoner shall undergo a test for HIV or an antibody to HIV. This subsection does not apply if an incoming prisoner has been tested for HIV or an antibody to HIV under section 5129 of the public health code, 1978 PA 368, MCL 333.5129, within the 3 months immediately preceding the date of the prisoner's arrival at the reception center, as indicated by the record transferred to the department by the court under that section.

(3) If a prisoner receives a positive test result and is subsequently subject to discipline by the department for sexual misconduct that could transmit HIV, illegal intravenous use of controlled substances, or assaultive or predatory behavior that could transmit HIV, the department shall house that prisoner in administrative segregation, an inpatient health care unit, or a unit separate from the general prisoner population, as determined by the department.

(4) The department shall report each positive test result to the department of community health, in compliance with section 5114 of the public health code, 1978 PA 368, MCL 333.5114.

(5) If an employee of the department sustains a percutaneous, mucous membrane, or open wound exposure to the blood or body fluid of a prisoner, the employee may, and the department shall, proceed under section 67b.

(6) Upon the request of an employee of the department, the department shall provide or arrange for a test for HIV or an antibody to HIV for that employee, free of charge.

(7) Upon the request of an employee of the department, the department shall provide to that employee the equipment necessary to implement universal precautions to prevent transmission of HIV infection.

(8) A prisoner who receives a positive HIV test result shall not work in a health facility operated by the department.

(9) The department shall conduct a seroprevalence study of the prisoners in all state correctional facilities to determine the percentage of prisoners who are HIV infected.

(10) The results of a test for HIV or an antibody to HIV conducted under this section shall be disclosed by the department under section 67b.

(11) The deputy director of the correctional facilities administration shall take steps to ensure that all prisoners who receive HIV testing receive counseling regarding AIDS including, at a minimum, treatment, transmission, and protective measures.

(12) The department, in conjunction with the department of community health, shall develop and implement a comprehensive AIDS education program designed specifically for correctional environments. The program shall be conducted by the bureau within the department responsible for health care, for staff and for prisoners at each state correctional facility.

(13) As used in this section:

(a) "AIDS" means acquired immunodeficiency syndrome.

(b) "HIV" means human immunodeficiency virus.

(c) "Positive test result" means a double positive enzyme-linked immunosorbent assay test, combined with a positive western blot assay test, or a positive test under an HIV test that is considered reliable by the federal centers for disease control and is approved by the department of community health.

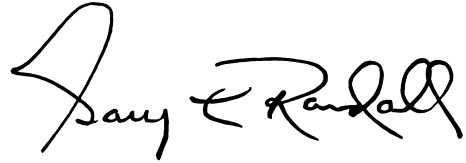
Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 96th Legislature are enacted into law:

(a) House Bill No. 4075.

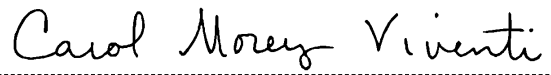
(b) House Bill No. 4076.

(c) House Bill No. 4077.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor