

HOUSE BILL No. 4182

February 1, 2011, Introduced by Reps. Oakes, Horn, Bledsoe, Irwin, Santana, Constan, Cavanagh and Olumba and referred to the Committee on Judiciary.

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
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 34b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 34B. (1) THE DEPARTMENT, BY CONTRACT OR OTHERWISE, SHALL
2 ASSIST PRISONERS WITH REENTRY INTO THE COMMUNITY, INCLUDING, BUT
3 NOT LIMITED TO, BOTH OF THE FOLLOWING:

4 (A) THE DEPARTMENT SHALL ASSIST PRISONERS IN OBTAINING THE
5 IDENTIFICATION DOCUMENTS DESCRIBED IN THIS SECTION.

6 (B) SUBJECT TO THE DEPARTMENT'S SECURITY NEEDS, THE DEPARTMENT
7 SHALL REASONABLY ALLOW PRISONERS TO OBTAIN THE FOLLOWING
8 IDENTIFICATION DOCUMENTS BEFORE THOSE PRISONERS ARE RELEASED ON

1 PAROLE OR DISCHARGED UPON COMPLETION OF THEIR MAXIMUM SENTENCES:

2 (i) ANY OF THE IDENTIFICATION DOCUMENTS THAT, IN COMBINATION
3 WITH THE PRISONER IDENTIFICATION CARD ISSUED UNDER SECTION 37(4),
4 WOULD SATISFY THE APPLICATION REQUIREMENTS FOR OBTAINING AN
5 OPERATOR'S LICENSE OR STATE PERSONAL IDENTIFICATION CARD AS
6 ESTABLISHED BY THE SECRETARY OF STATE UNDER SECTION 307 OF THE
7 MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.307, OR SECTION 1 OF
8 1972 PA 222, MCL 28.291.

9 (ii) A SOCIAL SECURITY CARD.

10 (2) A PRISONER'S ATTEMPT OR FAILURE TO ATTEMPT TO OBTAIN THE
11 DOCUMENTS IDENTIFIED IN SUBSECTION (1)(B) IS A FACTOR THAT IS TO BE
12 CONSIDERED AS PART OF THE PRISONER'S PAROLE ELIGIBILITY REPORT, AS
13 PROVIDED IN SECTION 35(7)(E).

14 (3) THIS SECTION APPLIES TO ALL PRISONERS SERVING A SENTENCE
15 UNDER THE JURISDICTION OF THE DEPARTMENT AFTER THE EFFECTIVE DATE
16 OF THE AMENDATORY ACT THAT ADDED THIS SECTION.

17 (4) THE DEPARTMENT SHALL PROVIDE TO EACH PRISONER A COPY OF
18 THE FORM DESCRIBED IN SECTION 14(8)(B) OF CHAPTER XI OF THE CODE OF
19 CRIMINAL PROCEDURE, 1927 PA 175, MCL 771.14, LISTING THE PERSONAL
20 IDENTIFICATION DOCUMENTS REFERENCED IN SUBSECTION (1). FOR A
21 PRISONER WHO BEGINS SERVING A SENTENCE UNDER THE JURISDICTION OF
22 THE DEPARTMENT AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
23 ADDED THIS SECTION, THE DEPARTMENT SHALL PROVIDE THE FORM NOT LATER
24 THAN 10 DAYS AFTER THE PRISONER ARRIVES AT A RECEPTION CENTER UNDER
25 SECTION 67(1). FOR ANY PRISONER WHO IS UNDER THE JURISDICTION OF
26 THE DEPARTMENT ON THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT
27 ADDED THIS SECTION, THE DEPARTMENT SHALL PROVIDE THE FORM NOT LATER

1 THAN 30 DAYS AFTER THAT EFFECTIVE DATE.

2 (5) THE DEPARTMENT SHALL ALLOW THE SECRETARY OF STATE TO HAVE
3 ELECTRONIC ACCESS TO PRISONER BIOGRAPHY INFORMATION FOR THE PURPOSE
4 OF VERIFYING THE IDENTITY OF PRISONERS WHO APPLY FOR DRIVER
5 LICENSES OR STATE PERSONAL IDENTIFICATION CARDS.

6 (6) THE REENTRY SUCCESS FUND IS CREATED WITHIN THE STATE
7 TREASURY. THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS
8 FROM ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER
9 SHALL DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL
10 CREDIT TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.
11 MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL REMAIN IN
12 THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND. THE DEPARTMENT OF
13 CORRECTIONS SHALL EXPEND MONEY FROM THE REENTRY SUCCESS FUND, UPON
14 APPROPRIATION, ONLY FOR THE EXPENSES OF PERFORMING THE ACTIVITIES
15 REQUIRED BY THIS SECTION.

16 Sec. 35. (1) The release of a prisoner on parole shall be
17 granted solely upon the initiative of the parole board. The parole
18 board may grant a parole without interviewing the prisoner.
19 However, beginning ~~on the date on which the administrative rules~~
20 ~~prescribing parole guidelines pursuant to section 33e(5) take~~
21 ~~effect~~ JANUARY 26, 1996, the parole board may grant a parole
22 without interviewing the prisoner only if, after evaluating the
23 prisoner according to the parole guidelines, the parole board
24 determines that the prisoner has a high probability of being
25 paroled and the parole board therefore intends to parole the
26 prisoner. Except as provided in subsection (2), a prisoner shall
27 not be denied parole without an interview before 1 member of the

1 parole board. The interview shall be conducted at least 1 month
2 before the expiration of the prisoner's minimum sentence less
3 applicable good time and disciplinary credits for a prisoner
4 eligible for good time and disciplinary credits, or at least 1
5 month before the expiration of the prisoner's minimum sentence for
6 a prisoner subject to disciplinary time. The parole board shall
7 consider any statement made to the parole board by a crime victim
8 under the **WILLIAM VAN REGENMORTER** crime victim's rights act, 1985
9 PA 87, MCL 780.751 to 780.834, or under any other provision of law.
10 The parole board shall not consider any of the following factors in
11 making a parole determination:

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

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

20 (2) Beginning ~~on the date on which the administrative rules~~
21 ~~prescribing the parole guidelines take effect pursuant to section~~
22 ~~33e(5)~~ **JANUARY 26, 1996**, if, after evaluating a prisoner according
23 to the parole guidelines, the parole board determines that the
24 prisoner has a low probability of being paroled and the parole
25 board therefore does not intend to parole the prisoner, the parole
26 board ~~shall~~ **IS** not ~~be~~ required to interview the prisoner before
27 denying parole to the prisoner.

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

3 (a) A prisoner's marital history.

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

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

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

22 (6) A prisoner may waive the right to an interview by 1 member
23 of the parole board. The waiver of the right to be interviewed
24 shall be given not more than 30 days after the notice of intent to
25 conduct an interview is issued and shall be made in writing. During
26 the interview held pursuant to a notice of intent to conduct an
27 interview, the prisoner may be represented by an individual of his

1 or her choice. The representative shall not be another prisoner or
2 an attorney. A prisoner is not entitled to appointed counsel at
3 public expense. The prisoner or representative may present relevant
4 evidence in support of release. ~~This subsection does not apply~~
5 ~~until April 1, 1983.~~

6 (7) At least 90 days before the expiration of the prisoner's
7 minimum sentence less applicable good time and disciplinary credits
8 for a prisoner eligible for good time or disciplinary credits, or
9 at least 90 days before the expiration of the prisoner's minimum
10 sentence for a prisoner subject to disciplinary time, or the
11 expiration of a 12-month continuance for any prisoner, a parole
12 eligibility report shall be prepared by appropriate institutional
13 staff. The parole eligibility report shall be considered pertinent
14 information for purposes of subsection (5). The report shall
15 include all of the following:

16 (a) A statement of all major misconduct charges of which the
17 prisoner was found guilty and the punishment served for the
18 misconduct.

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

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

22 (d) Whether the prisoner fully cooperated with the state by
23 providing complete financial information as required under section
24 3a of the state correctional facility reimbursement act, 1935 PA
25 253, MCL 800.403a.

26 **(E) WHETHER THE PRISONER ATTEMPTED TO OBTAIN IDENTIFICATION**
27 **DOCUMENTS UNDER SECTION 34B, IF APPLICABLE.**

1 (F) ~~(e)~~ For a prisoner subject to disciplinary time, a
2 statement of all disciplinary time submitted for the parole board's
3 consideration pursuant to ~~UNDER~~ section 34 of 1893 PA 118, MCL
4 800.34.

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

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

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

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

1 health code, 1974 PA 258, MCL 330.1401.

2 (12) When the parole board makes a final determination not to
3 release a prisoner, the prisoner shall be provided with a written
4 explanation of the reason for denial and, if appropriate, specific
5 recommendations for corrective action the prisoner may take to
6 facilitate release.

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

10 Sec. 37. (1) When a prisoner is released upon parole, the
11 department shall provide the prisoner with clothing and a
12 nontransferable ticket to the place in which the paroled prisoner
13 is to reside. At the discretion of the deputy director in charge of
14 the ~~bureau of field services~~ **OPERATIONS ADMINISTRATION**, the paroled
15 prisoner may be advanced the expense of the transportation to the
16 place of residence and a sum of money necessary for reasonable
17 maintenance and subsistence for a 2-week period, as determined by
18 the deputy director. A sum of money given under this section shall
19 be repaid to the state by the paroled prisoner within 180 days
20 after the money is received by the paroled prisoner.

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

26 (a) Clothing that is appropriate for the season.

27 (b) A sum of \$75.00 including that amount already in the

1 prisoner's possession.

2 (c) Transportation to a place in this state where the prisoner
3 will reside or work or to the place where the prisoner was
4 convicted or sentenced.

5 (3) When providing for transportation, the department shall DO
6 ALL OF THE FOLLOWING:

7 (a) Use the most economical available public transportation.

8 (b) Arrange for and purchase the prisoner's transportation
9 ticket.

10 (c) Assume responsibility for delivering that prisoner to the
11 site of departure and confirming the prisoner's departure from the
12 site.

13 (4) THE DEPARTMENT SHALL PROVIDE A PRISONER IDENTIFICATION
14 CARD TO EACH PRISONER WHEN HE OR SHE IS RELEASED ON PAROLE OR IS
15 RELEASED UPON COMPLETION OF HIS OR HER MAXIMUM SENTENCE. THE
16 IDENTIFICATION CARD SHALL INCLUDE ALL OF THE FOLLOWING BASED UPON
17 ALL AVAILABLE INFORMATION:

18 (A) THE PRISONER'S PHOTOGRAPH, TAKEN NOT EARLIER THAN 6 MONTHS
19 BEFORE THE PRISONER'S DATE OF RELEASE.

20 (B) THE PRISONER'S NAME AS IDENTIFIED ON THE PRISONER'S BIRTH
21 CERTIFICATE OR ON ANY 1 OF THE OTHER IDENTIFICATION DOCUMENTS
22 SPECIFIED BY THE SECRETARY OF STATE AS BEING NECESSARY TO OBTAIN AN
23 OPERATOR'S LICENSE OR STATE PERSONAL IDENTIFICATION CARD, IF THOSE
24 DOCUMENTS ARE AVAILABLE; OR THE PRISONER'S NAME LISTED ON HIS OR
25 HER COMMITMENT PAPERS.

26 (C) THE PRISONER'S PLACE AND DATE OF BIRTH.

27 (D) THE DATE ON WHICH THE PRISONER BEGAN HIS OR HER TERM OF

1 **INCARCERATION AT A STATE CORRECTIONAL FACILITY.**

2 **(E) A STATEMENT AS TO WHETHER THE PRISONER WAS PLACED ON**
3 **PAROLE OR DISCHARGED UPON COMPLETION OF HIS OR HER SENTENCE.**

4 **(5) ~~(4)~~**—The cost of implementing this section shall be paid
5 out of the general fund of the state.

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

22 (2) Immediately upon arrival at a reception center designated
23 ~~pursuant to~~ **UNDER** subsection (1), each incoming prisoner shall
24 undergo a test for HIV or an antibody to HIV. This subsection does
25 not apply if an incoming prisoner has been tested for HIV or an
26 antibody to HIV under section 5129 of the public health code, ~~Act~~
27 ~~No. 368 of the Public Acts of 1978, being section 333.5129 of the~~

1 ~~Michigan Compiled Laws 1978 PA 368, MCL 333.5129~~, within the 3
2 months immediately preceding the date of the prisoner's arrival at
3 the reception center, as indicated by the record transferred to the
4 department by the court under that section.

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

13 (4) The department shall report each positive test result to
14 the department of community health, in compliance with section 5114
15 of ~~Act No. 368 of the Public Acts of 1978, being section 333.5114~~
16 ~~of the Michigan Compiled Laws~~ **THE PUBLIC HEALTH CODE, 1978 PA 368,**
17 **MCL 333.5114.**

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

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

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

1 infection.

2 (8) A prisoner who receives a positive HIV test result under
3 subsection (5) shall not work in a health facility operated by the
4 department.

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

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

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

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

21 ~~— (13) By March 30, 1991, the department shall submit a report~~
22 ~~regarding the testing component, managerial aspects, and~~
23 ~~effectiveness of subsections (2) to (12) to the senate and house~~
24 ~~committees with jurisdiction over matters pertaining to~~
25 ~~corrections, and to the senate and house committees with~~
26 ~~jurisdiction over matters pertaining to public health.~~

27 (13) ~~(14)~~ As used in this section:

1 (a) "AIDS" means acquired immunodeficiency syndrome.

2 (b) "HIV" means human immunodeficiency virus.

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

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

11 (a) Senate Bill No.____ or House Bill No. 4183(request no.
12 00820'11 a).

13 (b) Senate Bill No.____ or House Bill No. 4184(request no.
14 00820'11 b).

15 (c) Senate Bill No.____ or House Bill No. 4185(request no.
16 00820'11 c).

17 (d) Senate Bill No.____ or House Bill No. 4186(request no.
18 00820'11 d).