

HOUSE BILL No. 4704

June 1, 2011, Introduced by Rep. Scott and referred to the Committee on Judiciary.

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending section 35 (MCL 791.235), as amended by 1998 PA 315.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 35. (1) The release of a prisoner on parole shall be
2 granted solely upon the initiative of the parole board. The parole
3 board may grant a parole without interviewing the prisoner.
4 However, beginning ~~on the date on which the administrative rules~~
5 ~~prescribing parole guidelines pursuant to section 33e(5) take~~
6 ~~effect~~ **JANUARY 26, 1996**, the parole board may grant a parole
7 without interviewing the prisoner only if, after evaluating the
8 prisoner according to the parole guidelines, the parole board
9 determines that the prisoner has a high probability of being
10 paroled and the parole board therefore intends to parole the
11 prisoner. Except as provided in subsection ~~(2)~~, **(3)**, a prisoner

1 shall not be denied parole without an interview before 1 member of
2 the parole board. The interview shall be conducted at least 1 month
3 before the expiration of the prisoner's minimum sentence less
4 applicable good time and disciplinary credits for a prisoner
5 eligible for good time and disciplinary credits, or at least 1
6 month before the expiration of the prisoner's minimum sentence for
7 a prisoner subject to disciplinary time. The parole board shall
8 consider any statement made to the parole board by a crime victim
9 under the **WILLIAM VAN REGENMORTER** crime victim's rights act, 1985
10 PA 87, MCL 780.751 to 780.834, or under any other provision of law.
11 The parole board shall not consider any of the following factors in
12 making a parole determination:

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

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

21 **(2) NOT LATER THAN 42 DAYS BEFORE A PRISONER'S PAROLE**
22 **INTERVIEW, THE DEPARTMENT SHALL SEND WRITTEN NOTICE BY FIRST-CLASS**
23 **MAIL OR BY ELECTRONIC MEANS TO THE PROSECUTING ATTORNEY FOR EACH**
24 **COUNTY IN WHICH THE PRISONER WAS CONVICTED. THE NOTICE SHALL STATE**
25 **THE PRISONER'S NAME, THE LOCATION AND TIME OF THE SCHEDULED**
26 **INTERVIEW, AND ANY OTHER INFORMATION NECESSARY FOR THE PROSECUTING**
27 **ATTORNEY TO APPEAR AT THE HEARING TO MAKE A STATEMENT TO THE PAROLE**

1 BOARD OR TO SUBMIT A STATEMENT FOR CONSIDERATION BY THE PAROLE
2 BOARD.

3 (3) IF THE DEPARTMENT PROPOSES TO PLACE A PRISONER ON PAROLE
4 WITHOUT BEING INTERVIEWED, THE DEPARTMENT SHALL SEND WRITTEN NOTICE
5 OF THE PROPOSED PAROLE PLACEMENT BY FIRST-CLASS MAIL OR BY
6 ELECTRONIC MEANS TO THE PROSECUTING ATTORNEY FOR EACH COUNTY IN
7 WHICH THE PRISONER WAS CONVICTED, NOT LATER THAN 42 DAYS BEFORE THE
8 PROPOSED DATE ON WHICH THE PRISONER WILL BE PLACED ON PAROLE. THE
9 PROSECUTING ATTORNEY MAY SUBMIT A STATEMENT TO THE PAROLE BOARD
10 THAT PROVIDES THE PROSECUTING ATTORNEY'S REASONS FOR OBJECTING TO
11 THE PROPOSED PAROLE. IF THE PROSECUTING ATTORNEY SUBMITS A
12 STATEMENT OBJECTING TO PAROLE, THE BOARD SHALL EITHER DENY THE
13 PAROLE OR CONDUCT AN INTERVIEW UNDER SUBSECTION (2).

14 (4) ~~(2) Beginning on the date on which the administrative~~
15 ~~rules prescribing the parole guidelines take effect pursuant to~~
16 ~~section 33e(5)~~ JANUARY 26, 1996, if, after evaluating a prisoner
17 according to the parole guidelines, the parole board determines
18 that the prisoner has a low probability of being paroled and the
19 parole board therefore does not intend to parole the prisoner, the
20 parole board ~~shall~~ IS not ~~be~~ required to interview the prisoner
21 before denying parole to the prisoner.

22 (5) ~~(3)~~ The parole board may consider but shall not base a
23 determination to deny parole solely on either of the following:

24 (a) A prisoner's marital history.

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

27 (6) ~~(4)~~ If an interview is to be conducted, the prisoner shall

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

10 (7) ~~(5)~~—Except for good cause, the parole board member
11 conducting the interview shall not have cast a vote for or against
12 the prisoner's release before conducting the current interview.
13 Before the interview, the parole board member who is to conduct the
14 interview shall review pertinent information relative to the notice
15 of intent to conduct an interview.

16 (8) ~~(6)~~—A prisoner may waive the right to an interview by 1
17 member of the parole board. The waiver of the right to be
18 interviewed shall be given not more than 30 days after the notice
19 of intent to conduct an interview is issued and shall be made in
20 writing. During the interview held pursuant to a notice of intent
21 to conduct an interview, the prisoner may be represented by an
22 individual of his or her choice. The representative shall not be
23 another prisoner or an attorney. A prisoner is not entitled to
24 appointed counsel at public expense. The prisoner or representative
25 may present relevant evidence in support of release. This
26 subsection does not apply until April 1, 1983.

27 (9) ~~(7)~~—At least 90 days before the expiration of the

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

10 (a) A statement of all major misconduct charges of which the
11 prisoner was found guilty and the punishment served for the
12 misconduct.

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

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

16 (d) Whether the prisoner fully cooperated with the state by
17 providing complete financial information as required under section
18 3a of the state correctional facility reimbursement act, 1935 PA
19 253, MCL 800.403a.

20 (e) For a prisoner subject to disciplinary time, a statement
21 of all disciplinary time submitted for the parole board's
22 consideration ~~pursuant to~~ **UNDER** section 34 of 1893 PA 118, MCL
23 800.34.

24 **(10)** ~~(8)~~ The preparer of the report shall not include a
25 recommendation as to release on parole.

26 **(11)** ~~(9)~~ Psychological evaluations performed at the request of
27 the parole board to assist it in reaching a decision on the release

1 of a prisoner may be performed by the same person who provided the
2 prisoner with therapeutic treatment, unless a different person is
3 requested by the prisoner or parole board.

4 (12) ~~(10)~~—The parole board may grant a medical parole for a
5 prisoner determined to be physically or mentally incapacitated. A
6 decision to grant a medical parole shall be initiated upon the
7 recommendation of the bureau of health care services and shall be
8 reached only after a review of the medical, institutional, and
9 criminal records of the prisoner.

10 (13) ~~(11)~~—The department shall submit a petition to the
11 appropriate court under section 434 of the mental health code, 1974
12 PA 258, MCL 330.1434, for any prisoner being paroled or being
13 released after serving his or her maximum sentence whom the
14 department considers to be a person requiring treatment. The parole
15 board shall require mental health treatment as a special condition
16 of parole for any parolee whom the department has determined to be
17 a person requiring treatment whether or not the petition filed for
18 that prisoner is granted by the court. As used in this subsection,
19 "person requiring treatment" means that term as defined in section
20 401 of the mental health code, 1974 PA 258, MCL 330.1401.

21 (14) ~~(12)~~—When the parole board makes a final determination
22 not to release a prisoner, the prisoner shall be provided with a
23 written explanation of the reason for denial and, if appropriate,
24 specific recommendations for corrective action the prisoner may
25 take to facilitate release.

26 (15) ~~(13)~~—This section does not apply to the placement on
27 parole of a person in conjunction with special alternative

1 incarceration under section 34a(7).