

HOUSE BILL No. 5799

August 15, 2012, Introduced by Reps. Brunner, Greimel, Dillon, Ananich, Smiley and Kandrevas 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 2012 PA 24.

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 January 26, 1996, the parole board may grant a
5 parole without interviewing the prisoner only if, after evaluating
6 the prisoner according to the parole guidelines, the parole board
7 determines that the prisoner has a high probability of being
8 paroled and the parole board therefore intends to parole the
9 prisoner. Except as provided in subsection (2), a prisoner shall
10 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 January 26, 1996, if, after evaluating a
21 prisoner according to the parole guidelines, the parole board
22 determines that the prisoner has a low probability of being paroled
23 and the parole board therefore does not intend to parole the
24 prisoner, the parole board is not required to interview the
25 prisoner before denying parole to the prisoner.

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

1 (a) A prisoner's marital history.

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

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

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

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

1 public expense. The prisoner or representative may present relevant
2 evidence in support of release.

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

13 (a) A statement of all major misconduct charges of which the
14 prisoner was found guilty and the punishment served for the
15 misconduct.

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

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

19 (d) Whether the prisoner fully cooperated with the state by
20 providing complete financial information as required under section
21 3a of the state correctional facility reimbursement act, 1935 PA
22 253, MCL 800.403a.

23 (e) Whether the prisoner refused to attempt to obtain
24 identification documents under section 34c, if applicable.

25 (f) For a prisoner subject to disciplinary time, a statement
26 of all disciplinary time submitted for the parole board's
27 consideration under section 34 of 1893 PA 118, MCL 800.34.

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

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

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

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

25 **(12) THE PAROLE BOARD SHALL ALLOW EACH VICTIM TO REVIEW ALL**
26 **DOCUMENTS, RECORDS, AND REPORTS SUBMITTED FOR CONSIDERATION BY THE**
27 **PAROLE BOARD, INCLUDING THE PRISONER'S PAROLE ELIGIBILITY REPORT,**

1 BEFORE DETERMINING WHETHER THE PRISONER SHOULD BE GRANTED PAROLE
2 UNDER THIS SECTION. THE PAROLE BOARD SHALL GRANT THE VICTIM NOT
3 LESS THAN 10 DAYS TO CONDUCT HIS OR HER REVIEW AND SHALL, UPON THE
4 REQUEST OF THE VICTIM, PROVIDE THE VICTIM WITH COPIES OF THOSE
5 DOCUMENTS, RECORDS, AND REPORTS FREE OF CHARGE BEFORE PAROLE IS
6 GRANTED.

7 (13) ~~(12)~~—When the parole board makes a final determination
8 not to release a prisoner, the prisoner shall be provided with a
9 written explanation of the reason for denial and, if appropriate,
10 specific recommendations for corrective action the prisoner may
11 take to facilitate release.

12 (14) ~~(13)~~—This section does not apply to the placement on
13 parole of a person in conjunction with special alternative
14 incarceration under section 34a(7).