

# SENATE BILL No. 355

May 4, 2011, Introduced by Senators WARREN, JOHNSON, YOUNG, HOPGOOD and SMITH and referred to the Committee on Judiciary.

A bill to amend 1953 PA 232, entitled  
"Corrections code of 1953,"  
by amending sections 33e, 34, and 35 (MCL 791.233e, 791.234, and  
791.235), section 33e as added by 1992 PA 181, section 34 as  
amended by 2010 PA 353, and section 35 as amended by 1998 PA 315.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 33e. (1) The department shall develop parole guidelines  
2       that are consistent with section ~~33(1)(a)~~ **33(1)** and that shall  
3       govern the exercise of the parole board's discretion ~~pursuant to~~  
4       **UNDER** sections 34 and 35 as to the release of prisoners on parole  
5       under this act. The purpose of the parole guidelines shall be to  
6       assist the parole board in making release decisions that enhance  
7       the public safety.

8       **(2) THE PAROLE GUIDELINES SHALL DO ALL OF THE FOLLOWING:**

1 (A) PROVIDE FOR PROTECTION OF THE PUBLIC.

2 (B) REFLECT A PRISONER'S ACTUAL CURRENT RISK FOR REOFFENDING.

3 (C) ENCOURAGE POSITIVE INSTITUTIONAL CONDUCT AND PARTICIPATION  
4 IN INSTITUTIONAL PROGRAMS.

5 (D) APPLY TO ALL PRISONERS ELIGIBLE FOR PAROLE, INCLUDING  
6 THOSE WITHIN THE PAROLE BOARD'S JURISDICTION UNDER SECTION 34(7).

7 (3) ~~(2)~~—In developing the parole guidelines, the department  
8 shall consider factors including, but not limited to, **ALL OF** the  
9 following:

10 (a) The offense for which the prisoner is incarcerated at the  
11 time of parole consideration.

12 (b) The prisoner's institutional program performance.

13 (c) The prisoner's institutional conduct.

14 (d) The prisoner's prior criminal record. As used in this  
15 subdivision, "prior criminal record" means the recorded criminal  
16 history of a prisoner, including all misdemeanor and felony  
17 convictions, probation violations, juvenile adjudications for acts  
18 that would have been crimes if committed by an adult, parole  
19 failures, and delayed sentences.

20 (e) Other relevant factors ~~as~~ determined by the department **TO**  
21 **PREDICT THE RISK OF REOFFENDING**, if not otherwise prohibited by  
22 law.

23 (4) **THE FACTORS EMPLOYED IN DEVELOPING PAROLE GUIDELINES UNDER**  
24 **SUBSECTION (3) SHALL BE WEIGHTED ACCORDING TO THEIR ABILITY TO**  
25 **PREDICT THE RISK OF REOFFENDING.**

26 (5) ~~(3)~~—In developing the parole guidelines, the department  
27 may consider both of the following factors:

1 (a) The prisoner's statistical risk screening.

2 (b) The prisoner's age.

3 (6) ~~(4)~~—The department shall ensure that the parole guidelines  
4 do not create disparities in release decisions based on race,  
5 color, national origin, gender, religion, or disability. **IN**  
6 **DEVELOPING THE PAROLE GUIDELINES, NO WEIGHT SHALL BE ACCORDED TO**  
7 **THE FACT THAT A PRISONER ELIGIBLE FOR PAROLE IS SERVING A LONG**  
8 **INDETERMINATE OR LIFE SENTENCE.**

9 (7) ~~(5)~~—The department shall promulgate rules pursuant to  
10 **UNDER** the administrative procedures act of 1969, ~~Act No. 306 of the~~  
11 ~~Public Acts of 1969, being sections 24.201 to 24.328 of the~~  
12 ~~Michigan Compiled Laws 1969 PA 306, MCL 24.201 TO 24.328, which~~  
13 shall prescribe the parole guidelines. ~~The department shall submit~~  
14 ~~the proposed rules to the joint committee on administrative rules~~  
15 ~~not later than April 1, 1994. Until the rules take effect, the~~  
16 ~~director shall require that the parole guidelines be considered by~~  
17 ~~the parole board in making release decisions. After the rules take~~  
18 ~~effect, the director shall require that the parole board follow the~~  
19 ~~parole guidelines.~~

20 (8) ~~(6)~~—The parole board may depart from the parole guidelines  
21 by denying parole to a prisoner who has a high probability of  
22 parole as determined under the parole guidelines or by granting  
23 parole to a prisoner who has a low probability of parole as  
24 determined under the parole guidelines. A departure under this  
25 subsection shall be for substantial and compelling reasons stated  
26 in writing. The parole board shall not use a prisoner's gender,  
27 race, ethnicity, alienage, national origin, or religion to depart

1 from the recommended parole guidelines. THE BOARD SHALL NOT BASE A  
2 DEPARTURE ON A FACTOR ALREADY TAKEN INTO ACCOUNT BY THE PAROLE  
3 GUIDELINES UNLESS THE BOARD FINDS FROM FACTS IN THE RECORD THAT THE  
4 FACTOR HAS BEEN GIVEN INADEQUATE OR DISPROPORTIONATE WEIGHT.

5 (9) THE PRISONER MAY APPEAL A DENIAL OF PAROLE BY LEAVE TO THE  
6 CIRCUIT COURT THAT IMPOSED THE SENTENCE THAT THE PRISONER IS  
7 SERVING ONLY ON 1 OR MORE OF THE FOLLOWING GROUNDS:

8 (A) THE PRISONER SCORED A HIGH PROBABILITY OF RELEASE ON  
9 PAROLE, AND THE BOARD DEPARTED FROM THE PAROLE GUIDELINES WITHOUT  
10 SUBSTANTIAL AND COMPELLING REASONS.

11 (B) THE DENIAL RESULTED FROM A MATERIAL MISTAKE IN THE PAROLE  
12 GUIDELINES SCORING THAT THE BOARD FAILED TO RECONSIDER AFTER  
13 RECEIVING NOTICE FROM THE PRISONER.

14 (C) THE DENIAL RESULTED FROM RELIANCE ON INACCURATE OR  
15 INCOMPLETE INFORMATION THAT THE BOARD FAILED TO RECONSIDER AFTER  
16 RECEIVING NOTICE FROM THE PRISONER.

17 (10) A WRITTEN NOTICE TO A PRISONER STATING THAT HIS OR HER  
18 PAROLE IS DENIED SHALL INCLUDE ALL OF THE FOLLOWING:

19 (A) A STATEMENT OF THE PRISONER'S RIGHT TO APPEAL THE DENIAL  
20 TO THE EXTENT ALLOWED UNDER SUBSECTION (9).

21 (B) A STATEMENT OF THE APPLICABLE FILING DEADLINES FOR FILING  
22 THE APPEAL.

23 (C) A STATEMENT THAT THE PRISONER HAS NO RIGHT TO THE  
24 APPOINTMENT OF COUNSEL AT PUBLIC EXPENSE FOR THE APPEAL.

25 (11) ~~(7)~~ Not less than once every 2 years, the department  
26 shall review the correlation between the implementation of the  
27 parole guidelines and the recidivism rate of paroled prisoners, and

1 shall submit to the joint committee on administrative rules any  
2 proposed revisions to the administrative rules that the department  
3 considers appropriate after conducting the review.

4       Sec. 34. (1) Except as provided in section 34a, a prisoner  
5 sentenced to an indeterminate sentence and confined in a state  
6 correctional facility with a minimum in terms of years other than a  
7 prisoner subject to disciplinary time is subject to the  
8 jurisdiction of the parole board when the prisoner has served a  
9 period of time equal to the minimum sentence imposed by the court  
10 for the crime of which he or she was convicted, less good time and  
11 disciplinary credits, if applicable.

12       (2) Except as provided in section 34a, a prisoner subject to  
13 disciplinary time sentenced to an indeterminate sentence and  
14 confined in a state correctional facility with a minimum in terms  
15 of years is subject to the jurisdiction of the parole board when  
16 the prisoner has served a period of time equal to the minimum  
17 sentence imposed by the court for the crime of which he or she was  
18 convicted.

19       (3) If a prisoner other than a prisoner subject to  
20 disciplinary time is sentenced for consecutive terms, whether  
21 received at the same time or at any time during the life of the  
22 original sentence, the parole board has jurisdiction over the  
23 prisoner for purposes of parole when the prisoner has served the  
24 total time of the added minimum terms, less the good time and  
25 disciplinary credits allowed by statute. The maximum terms of the  
26 sentences shall be added to compute the new maximum term under this  
27 subsection, and discharge shall be issued only after the total of

1 the maximum sentences has been served less good time and  
2 disciplinary credits, unless the prisoner is paroled and discharged  
3 upon satisfactory completion of the parole.

4 (4) If a prisoner subject to disciplinary time is sentenced  
5 for consecutive terms, whether received at the same time or at any  
6 time during the life of the original sentence, the parole board has  
7 jurisdiction over the prisoner for purposes of parole when the  
8 prisoner has served the total time of the added minimum terms. The  
9 maximum terms of the sentences shall be added to compute the new  
10 maximum term under this subsection, and discharge shall be issued  
11 only after the total of the maximum sentences has been served,  
12 unless the prisoner is paroled and discharged upon satisfactory  
13 completion of the parole.

14 (5) If a prisoner other than a prisoner subject to  
15 disciplinary time has 1 or more consecutive terms remaining to  
16 serve in addition to the term he or she is serving, the parole  
17 board may terminate the sentence the prisoner is presently serving  
18 at any time after the minimum term of the sentence has been served.

19 (6) A prisoner sentenced to imprisonment for life for any of  
20 the following is not eligible for parole and is instead subject to  
21 the provisions of section 44:

22 (a) First degree murder in violation of section 316 of the  
23 Michigan penal code, 1931 PA 328, MCL 750.316.

24 (b) A violation of section 16(5) or 18(7) of the Michigan  
25 penal code, 1931 PA 328, MCL 750.16 and 750.18.

26 (c) A violation of chapter XXXIII of the Michigan penal code,  
27 1931 PA 328, MCL 750.200 to 750.212a.

1 (d) A violation of section 17764(7) of the public health code,  
2 1978 PA 368, MCL 333.17764.

3 (e) First degree criminal sexual conduct in violation of  
4 section 520b(2)(c) of the Michigan penal code, 1931 PA 328, MCL  
5 750.520b.

6 (f) Any other violation for which parole eligibility is  
7 expressly denied under state law.

8 (7) A prisoner sentenced to imprisonment for life, other than  
9 a prisoner described in subsection (6), is subject to the  
10 jurisdiction of the parole board and may be placed on parole  
11 according to the conditions prescribed in subsection (8) if he or  
12 she meets any of the following criteria:

13 (a) Except as provided in subdivision (b) or (c), the prisoner  
14 has served 10 calendar years of the sentence for a crime committed  
15 before October 1, 1992 or 15 calendar years of the sentence for a  
16 crime committed on or after October 1, 1992.

17 (b) Except as provided in subsection (12), the prisoner has  
18 served 20 calendar years of a sentence for violating, or attempting  
19 or conspiring to violate, section 7401(2)(a)(i) of the public health  
20 code, 1978 PA 368, MCL 333.7401, and has another conviction for a  
21 serious crime.

22 (c) Except as provided in subsection (12), the prisoner has  
23 served 17-1/2 calendar years of the sentence for violating, or  
24 attempting or conspiring to violate, section 7401(2)(a)(i) of the  
25 public health code, 1978 PA 368, MCL 333.7401, and does not have  
26 another conviction for a serious crime.

27 (8) A parole granted to a prisoner under subsection (7) is

1 subject to the following conditions:

2 (a) At the conclusion of 10 calendar years of the prisoner's  
3 sentence and thereafter as determined by the parole board until the  
4 prisoner is paroled, discharged, or deceased, and in accordance  
5 with the procedures described in subsection (9), 1 member of the  
6 parole board shall interview the prisoner. The interview schedule  
7 prescribed in this subdivision applies to all prisoners to whom  
8 subsection (7) applies, regardless of the date on which they were  
9 sentenced.

10 (b) In addition to the interview schedule prescribed in  
11 subdivision (a), the parole board shall review the prisoner's file  
12 at the conclusion of 15 calendar years of the prisoner's sentence  
13 and every 5 years thereafter until the prisoner is paroled,  
14 discharged, or deceased. A prisoner whose file is to be reviewed  
15 under this subdivision shall be notified of the upcoming file  
16 review at least 30 days before the file review takes place and  
17 shall be allowed to submit written statements or documentary  
18 evidence for the parole board's consideration in conducting the  
19 file review.

20 (c) A decision to grant or deny parole to the prisoner shall  
21 not be made until after a public hearing held in the manner  
22 prescribed for pardons and commutations in sections 44 and 45.  
23 Notice of the public hearing shall be given to the sentencing  
24 judge, or the judge's successor in office, and parole shall not be  
25 granted if the sentencing judge, or the judge's successor in  
26 office, files written objections to the granting of the parole  
27 within 30 days of receipt of the notice of hearing. The written



1 objections shall be made part of the prisoner's file. **AN INTERVIEW**  
2 **OF A PRISONER WHO IS DETERMINED TO HAVE A HIGH PROBABILITY OF**  
3 **RELEASE USING THE PAROLE GUIDELINES SHALL BE RECORDED ON AUDIOTAPE,**  
4 **ON VIDEOTAPE, OR BY EQUIVALENT MEANS. IF PAROLE IS DENIED, THE**  
5 **RECORD SHALL BE MAINTAINED BY THE DEPARTMENT FOR 6 MONTHS AFTER THE**  
6 **DATE ON WHICH THE NOTICE OF DECISION WAS MAILED. IF A PAROLE**  
7 **DECISION IS THE SUBJECT OF AN APPEAL, THE INTERVIEW SHALL BE**  
8 **TRANSCRIBED AND MADE PART OF THE RECORD.**

9 (d) A parole granted under subsection (7) shall be for a  
10 period of not less than 4 years and subject to the usual rules  
11 pertaining to paroles granted by the parole board. A parole granted  
12 under subsection (7) is not valid until the transcript of the  
13 record is filed with the attorney general whose certification of  
14 receipt of the transcript shall be returnable to the office of the  
15 parole board within 5 days. Except for medical records protected  
16 under section 2157 of the revised judicature act of 1961, 1961 PA  
17 236, MCL 600.2157, the file of a prisoner granted a parole under  
18 subsection (7) is a public record.

19 (9) An interview conducted under subsection (8)(a) is subject  
20 to both of the following requirements:

21 (a) The prisoner shall be given written notice, not less than  
22 30 days before the interview date, stating that the interview will  
23 be conducted.

24 (b) The prisoner may be represented at the interview by an  
25 individual of his or her choice. The representative shall not be  
26 another prisoner. A prisoner is not entitled to appointed counsel  
27 at public expense. The prisoner or representative may present

1 relevant evidence in favor of holding a public hearing as allowed  
2 in subsection ~~(8)(b)~~ **(8)(C)**.

3 (10) In determining whether a prisoner convicted of violating,  
4 or attempting or conspiring to violate, section 7401(2)(a)(i) of the  
5 public health code, 1978 PA 368, MCL 333.7401, and sentenced to  
6 imprisonment for life before October 1, 1998 is to be released on  
7 parole, the parole board shall consider all of the following:

8 (a) Whether the violation was part of a continuing series of  
9 violations of section 7401 or 7403 of the public health code, 1978  
10 PA 368, MCL 333.7401 and 333.7403, by that individual.

11 (b) Whether the violation was committed by the individual in  
12 concert with 5 or more other individuals.

13 (c) Any of the following:

14 (i) Whether the individual was a principal administrator,  
15 organizer, or leader of an entity that the individual knew or had  
16 reason to know was organized, in whole or in part, to commit  
17 violations of section 7401 or 7403 of the public health code, 1978  
18 PA 368, MCL 333.7401 and 333.7403, and whether the violation for  
19 which the individual was convicted was committed to further the  
20 interests of that entity.

21 (ii) Whether the individual was a principal administrator,  
22 organizer, or leader of an entity that the individual knew or had  
23 reason to know committed violations of section 7401 or 7403 of the  
24 public health code, 1978 PA 368, MCL 333.7401 and 333.7403, and  
25 whether the violation for which the individual was convicted was  
26 committed to further the interests of that entity.

27 (iii) Whether the violation was committed in a drug-free school

1 zone.

2 (iv) Whether the violation involved the delivery of a  
3 controlled substance to an individual less than 17 years of age or  
4 possession with intent to deliver a controlled substance to an  
5 individual less than 17 years of age.

6 (11) Except as provided in section 34a, a prisoner's release  
7 on parole is discretionary with the parole board. The action of the  
8 parole board in granting a parole is appealable by the prosecutor  
9 of the county from which the prisoner was committed or the victim  
10 of the crime for which the prisoner was convicted. The appeal shall  
11 be to the circuit court in the county from which the prisoner was  
12 committed, by leave of the court.

13 (12) If the sentencing judge, or his or her successor in  
14 office, determines on the record that a prisoner described in  
15 subsection (7)(b) or (c) sentenced to imprisonment for life for  
16 violating, or attempting or conspiring to violate, section  
17 7401(2)(a)(i) of the public health code, 1978 PA 368, MCL 333.7401,  
18 has cooperated with law enforcement, the prisoner is subject to the  
19 jurisdiction of the parole board and may be released on parole as  
20 provided in subsection (7)(b) or (c) 2-1/2 years earlier than the  
21 time otherwise indicated in subsection (7)(b) or (c). The prisoner  
22 is considered to have cooperated with law enforcement if the court  
23 determines on the record that the prisoner had no relevant or  
24 useful information to provide. The court shall not make a  
25 determination that the prisoner failed or refused to cooperate with  
26 law enforcement on grounds that the defendant exercised his or her  
27 constitutional right to trial by jury. If the court determines at

1 sentencing that the defendant cooperated with law enforcement, the  
2 court shall include its determination in the judgment of sentence.

3 (13) Notwithstanding subsections (1) and (2), an individual  
4 convicted of violating, or attempting or conspiring to violate,  
5 section 7401(2)(a)(i) or 7403(2)(a)(i) of the public health code,  
6 1978 PA 368, MCL 333.7401 and 333.7403, whose offense occurred  
7 before March 1, 2003, and who was sentenced to a term of years, is  
8 eligible for parole after serving 20 years of the sentence imposed  
9 for the violation if the individual has another serious crime or  
10 17-1/2 years of the sentence if the individual does not have  
11 another conviction for a serious crime, or after serving the  
12 minimum sentence imposed for that violation, whichever is less.

13 (14) Notwithstanding subsections (1) and (2), an individual  
14 who was convicted of violating, or attempting or conspiring to  
15 violate, section 7401(2)(a)(ii) or 7403(2)(a)(ii) of the public  
16 health code, 1978 PA 368, MCL 333.7401 and 333.7403, whose offense  
17 occurred before March 1, 2003, and who was sentenced according to  
18 those sections as they existed before March 1, 2003, is eligible  
19 for parole after serving the minimum of each sentence imposed for  
20 that violation or 10 years of each sentence imposed for that  
21 violation, whichever is less.

22 (15) Notwithstanding subsections (1) and (2), an individual  
23 who was convicted of violating, or attempting or conspiring to  
24 violate, section 7401(2)(a)(iii) or 7403(2)(a)(iii) of the public  
25 health code, 1978 PA 368, MCL 333.7401 and 333.7403, whose offense  
26 occurred before March 1, 2003, and who was sentenced according to  
27 those sections as they existed before March 1, 2003, is eligible

1 for parole after serving the minimum of each sentence imposed for  
2 that violation or 5 years of each sentence imposed for that  
3 violation, whichever is less.

4 (16) Notwithstanding subsections (1) and (2), an individual  
5 who was convicted of violating, or attempting or conspiring to  
6 violate, section 7401(2)(a)(iv) or 7403(2)(a)(iv) of the public  
7 health code, 1978 PA 368, MCL 333.7401 and 333.7403, whose offense  
8 occurred before March 1, 2003, who was sentenced according to those  
9 sections of law as they existed before March 1, 2003 to consecutive  
10 terms of imprisonment for 2 or more violations of section  
11 7401(2)(a) or 7403(2)(a), is eligible for parole after serving 1/2  
12 of the minimum sentence imposed for each violation of section  
13 7401(2)(a)(iv) or 7403(2)(a)(iv). This subsection applies only to  
14 sentences imposed for violations of section 7401(2)(a)(iv) or  
15 7403(2)(a)(iv) and does not apply if the sentence was imposed for a  
16 conviction for a new offense committed while the individual was on  
17 probation or parole.

18 (17) The parole board shall provide notice to the prosecuting  
19 attorney of the county in which the individual was convicted before  
20 granting parole to the individual under subsection (13), (14),  
21 (15), or (16).

22 (18) As used in this section:

23 (a) "Serious crime" means violating or conspiring to violate  
24 article 7 of the public health code, 1978 PA 368, MCL 333.7101 to  
25 333.7545, that is punishable by imprisonment for more than 4 years,  
26 or an offense against a person in violation of section 83, 84, 86,  
27 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d,

1 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA 328,  
2 MCL 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.316,  
3 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b,  
4 750.520c, 750.520d, 750.520g, 750.529, 750.529a, and 750.530.

5 (b) "State correctional facility" means a facility that houses  
6 prisoners committed to the jurisdiction of the department.

7 Sec. 35. (1) The release of a prisoner on parole shall be  
8 granted solely upon the initiative of the parole board. The parole  
9 board may grant a parole without interviewing the prisoner.

10 However, beginning on the date on which the administrative rules  
11 prescribing parole guidelines ~~pursuant to~~ **UNDER** section ~~33e(5)~~  
12 **33E(7)** take effect, the parole board may grant a parole without  
13 interviewing the prisoner only if, after evaluating the prisoner  
14 according to the parole guidelines, the parole board determines  
15 that the prisoner has a high probability of being paroled and the  
16 parole board therefore intends to parole the prisoner. Except as  
17 provided in subsection (2), a prisoner shall not be denied parole  
18 without an interview before 1 member of the parole board. The  
19 interview shall be conducted at least 1 month before the expiration  
20 of the prisoner's minimum sentence less applicable good time and  
21 disciplinary credits for a prisoner eligible for good time and  
22 disciplinary credits, or at least 1 month before the expiration of  
23 the prisoner's minimum sentence for a prisoner subject to  
24 disciplinary time. The parole board shall consider any statement  
25 made to the parole board by a crime victim under the crime victim's  
26 rights act, 1985 PA 87, MCL 780.751 to 780.834, or under any other  
27 provision of law. The parole board shall not consider any of the

1 following factors in making a parole determination:

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

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

10 (2) Beginning on the date on which the administrative rules  
11 prescribing the parole guidelines take effect ~~pursuant to~~ **UNDER**  
12 ~~section 33e(5)~~ **33E(7)**, if, after evaluating a prisoner according to  
13 the parole guidelines, the parole board determines that the  
14 prisoner has a low probability of being paroled and the parole  
15 board therefore does not intend to parole the prisoner, the parole  
16 board shall not be required to interview the prisoner before  
17 denying parole to the prisoner.

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

20 (a) A prisoner's marital history.

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

23 (4) If an interview is to be conducted, the prisoner shall be  
24 sent a notice of intent to conduct an interview at least 1 month  
25 before the date of the interview. The notice shall state the  
26 specific issues and concerns that shall be discussed at the  
27 interview and that may be a basis for a denial of parole. A denial

1 of parole shall not be based on reasons other than those stated in  
2 the notice of intent to conduct an interview except for good cause  
3 stated to the prisoner at or before the interview and in the  
4 written explanation required by subsection (12). This subsection  
5 does not apply until April 1, 1983.

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

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

23 (7) At least 90 days before the expiration of the prisoner's  
24 minimum sentence less applicable good time and disciplinary credits  
25 for a prisoner eligible for good time or disciplinary credits, or  
26 at least 90 days before the expiration of the prisoner's minimum  
27 sentence for a prisoner subject to disciplinary time, or the



1 expiration of a 12-month continuance for any prisoner, a parole  
2 eligibility report shall be prepared by appropriate institutional  
3 staff. The parole eligibility report shall be considered pertinent  
4 information for purposes of subsection (5). The report shall  
5 include all of the following:

6 (a) A statement of all major misconduct charges of which the  
7 prisoner was found guilty and the punishment served for the  
8 misconduct.

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

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

12 (d) Whether the prisoner fully cooperated with the state by  
13 providing complete financial information as required under section  
14 3a of the state correctional facility reimbursement act, 1935 PA  
15 253, MCL 800.403a.

16 (e) For a prisoner subject to disciplinary time, a statement  
17 of all disciplinary time submitted for the parole board's  
18 consideration pursuant to section 34 of 1893 PA 118, MCL 800.34.

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

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

26 (10) The parole board may grant a medical parole for a  
27 prisoner determined to be physically or mentally incapacitated. A

1 decision to grant a medical parole shall be initiated upon the  
2 recommendation of the bureau of health care services and shall be  
3 reached only after a review of the medical, institutional, and  
4 criminal records of the prisoner.

5 (11) The department shall submit a petition to the appropriate  
6 court under section 434 of the mental health code, 1974 PA 258, MCL  
7 330.1434, for any prisoner being paroled or being released after  
8 serving his or her maximum sentence whom the department considers  
9 to be a person requiring treatment. The parole board shall require  
10 mental health treatment as a special condition of parole for any  
11 parolee whom the department has determined to be a person requiring  
12 treatment whether or not the petition filed for that prisoner is  
13 granted by the court. As used in this subsection, "person requiring  
14 treatment" means that term as defined in section 401 of the mental  
15 health code, 1974 PA 258, MCL 330.1401.

16 (12) When the parole board makes a final determination not to  
17 release a prisoner, the prisoner shall be provided with a written  
18 explanation of the reason for denial and, if appropriate, specific  
19 recommendations for corrective action the prisoner may take to  
20 facilitate release.

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