

**SUBSTITUTE FOR
HOUSE BILL NO. 4130**

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending sections 33 and 34 (MCL 791.233 and 791.234), section
33 as amended by 2017 PA 14 and section 34 as amended by 2017 PA
265.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 33. (1) The grant of a parole is subject to all of the
2 following conditions:

3 (a) A prisoner must not be given liberty on parole until the
4 board has reasonable assurance, after consideration of all of the
5 facts and circumstances, including the prisoner's mental and social
6 attitude, that the prisoner will not become a menace to society or
7 to the public safety.



1 (b) Except as provided in section 34a **and section 35(10)**, a
2 parole must not be granted to a prisoner other than a prisoner
3 subject to disciplinary time until the prisoner has served the
4 minimum term imposed by the court less allowances for good time or
5 special good time to which the prisoner may be entitled by statute,
6 except that a prisoner other than a prisoner subject to
7 disciplinary time is eligible for parole before the expiration of
8 his or her minimum term of imprisonment ~~whenever~~**if** the sentencing
9 judge, or the judge's successor in office, gives written approval
10 of the parole of the prisoner before the expiration of the minimum
11 term of imprisonment.

12 (c) Except as provided in section 34a **and section 35(10)**, and
13 notwithstanding the provisions of subdivision (b), a parole must
14 not be granted to a prisoner other than a prisoner subject to
15 disciplinary time sentenced for the commission of a crime described
16 in section 33b(a) to (cc) until the prisoner has served the minimum
17 term imposed by the court less an allowance for disciplinary
18 credits as provided in section 33(5) of 1893 PA 118, MCL 800.33. A
19 prisoner described in this subdivision is not eligible for special
20 parole.

21 (d) Except as provided in section 34a **and section 35(10)**, a
22 parole must not be granted to a prisoner subject to disciplinary
23 time until the prisoner has served the minimum term imposed by the
24 court.

25 (e) A prisoner must not be released on parole until the parole
26 board has satisfactory evidence that arrangements have been made
27 for such honorable and useful employment as the prisoner is capable
28 of performing, for the prisoner's education, or for the prisoner's
29 care if the prisoner is mentally or physically ill or



1 incapacitated.

2 (f) ~~A~~ Except as provided in section 35(10), a prisoner whose
3 minimum term of imprisonment is 2 years or more must not be
4 released on parole unless he or she has either earned a high school
5 diploma or a high school equivalency certificate. The director of
6 the department may waive the restriction imposed by this
7 subdivision as to any prisoner who is over the age of 65 or who was
8 gainfully employed immediately before committing the crime for
9 which he or she was incarcerated. The department may also waive the
10 restriction imposed by this subdivision as to any prisoner who has
11 a learning disability, who does not have the necessary proficiency
12 in English, or who for some other reason that is not the fault of
13 the prisoner is unable to successfully complete the requirements
14 for a high school diploma or a high school equivalency certificate.
15 If the prisoner does not have the necessary proficiency in English,
16 the department shall provide English language training for that
17 prisoner necessary for the prisoner to begin working toward the
18 completion of the requirements for a high school equivalency
19 certificate. This subdivision applies to prisoners sentenced for
20 crimes committed after December 15, 1998. In providing an
21 educational program leading to a high school diploma or a high
22 school equivalency certificate, the department shall give priority
23 to prisoners sentenced for crimes committed on or before December
24 15, 1998.

25 (2) Paroles-in-custody to answer warrants filed by local or
26 out-of-state agencies, or immigration officials, are permissible if
27 an accredited agent of the agency filing the warrant calls for the
28 prisoner to be paroled in custody.

29 (3) The parole board may promulgate rules under the



1 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
2 24.328, that are not inconsistent with this act with respect to
3 conditions imposed upon prisoners paroled under this act.

4 Sec. 34. (1) Except **for a prisoner granted parole under**
5 **section 35(10) or** as provided in section 34a, a prisoner sentenced
6 to an indeterminate sentence and confined in a state correctional
7 facility with a minimum in terms of years other than a prisoner
8 subject to disciplinary time is subject to the jurisdiction of the
9 parole board when the prisoner has served a period of time equal to
10 the minimum sentence imposed by the court for the crime of which he
11 or she was convicted, less good time and disciplinary credits, if
12 applicable.

13 (2) Except **for a prisoner granted parole under section 35(10)**
14 **or** as provided in section 34a, a prisoner subject to disciplinary
15 time sentenced to an indeterminate sentence and confined in a state
16 correctional facility with a minimum in terms of years is subject
17 to the jurisdiction of the parole board when the prisoner has
18 served a period of time equal to the minimum sentence imposed by
19 the court for the crime of which he or she was convicted.

20 (3) ~~If~~ **Except for a prisoner granted parole under section**
21 **35(10), if** a prisoner other than a prisoner subject to disciplinary
22 time is sentenced for consecutive terms, whether received at the
23 same time or at any time during the life of the original sentence,
24 the parole board has jurisdiction over the prisoner for purposes of
25 parole when the prisoner has served the total time of the added
26 minimum terms, less the good time and disciplinary credits allowed
27 by statute. The maximum terms of the sentences must be added to
28 compute the new maximum term under this subsection, and discharge
29 must be issued only after the total of the maximum sentences has



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

4 (4) ~~If~~ **Except for a prisoner granted parole under section**
 5 **35(10), if** a prisoner subject to disciplinary time is sentenced for
 6 consecutive terms, whether received at the same time or at any time
 7 during the life of the original sentence, the parole board has
 8 jurisdiction over the prisoner for purposes of parole when the
 9 prisoner has served the total time of the added minimum terms. The
 10 maximum terms of the sentences must be added to compute the new
 11 maximum term under this subsection, and discharge must be issued
 12 only after the total of the maximum sentences has been served,
 13 unless the prisoner is paroled and discharged upon satisfactory
 14 completion of the parole.

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

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

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

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

27 (c) A violation of chapter XXXIII of the Michigan penal code,
 28 1931 PA 328, MCL 750.200 to 750.212a.

29 (d) A violation of section 17764(7) of the public health code,



1 1978 PA 368, MCL 333.17764.

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

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

7 (7) ~~A~~**Except for a prisoner granted parole under section**
8 **35(10)**, a prisoner sentenced to imprisonment for life, other than a
9 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
28 subject to the following conditions:

29 (a) At the conclusion of 10 calendar years of the prisoner's



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

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

17 (c) A decision to grant or deny parole to the prisoner must
18 not be made until after a public hearing held in the manner
19 prescribed for pardons and commutations in sections 44 and 45.
20 Notice of the public hearing must be given to the sentencing judge,
21 or the judge's successor in office. Parole must not be granted if
22 the sentencing judge files written objections to the granting of
23 the parole within 30 days of receipt of the notice of hearing, but
24 the sentencing judge's written objections bar the granting of
25 parole only if the sentencing judge is still in office in the court
26 before which the prisoner was convicted and sentenced. A sentencing
27 judge's successor in office may file written objections to the
28 granting of parole, but a successor judge's objections must not bar
29 the granting of parole under subsection (7). If written objections



1 are filed by either the sentencing judge or the judge's successor
2 in office, ~~they~~ **the objections** must be made part of the prisoner's
3 file.

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

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

16 (a) The prisoner must be given written notice, not less than
17 30 days before the interview date, stating that the interview will
18 be conducted.

19 (b) The prisoner may be represented at the interview by an
20 individual of his or her choice. The representative must not be
21 another prisoner. A prisoner is not entitled to appointed counsel
22 at public expense. The prisoner or representative may present
23 relevant evidence in favor of holding a public hearing as allowed
24 in subsection (8)(c).

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



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

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

6 (c) Any of the following:

7 (i) Whether the individual was a principal administrator,
8 organizer, or leader of an entity that the individual knew or had
9 reason to know was organized, in whole or in part, to commit
10 violations of section 7401 or 7403 of the public health code, 1978
11 PA 368, MCL 333.7401 and 333.7403, and whether the violation for
12 which the individual was convicted was committed to further the
13 interests of that entity.

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

20 (iii) Whether the violation was committed in a drug-free school
21 zone.

22 (iv) Whether the violation involved the delivery of a
23 controlled substance to an individual less than 17 years of age or
24 possession with intent to deliver a controlled substance to an
25 individual less than 17 years of age.

26 (11) Except as provided in **subsection (19) and** section 34a, a
27 prisoner's release on parole is discretionary with the parole
28 board. The action of the parole board in granting a parole is
29 appealable by the prosecutor of the county from which the prisoner



1 was committed or the victim of the crime for which the prisoner was
2 convicted. The appeal ~~shall~~**must** be to the circuit court in the
3 county from which the prisoner was committed, by leave of the
4 court.

5 (12) If the sentencing judge, or his or her successor in
6 office, determines on the record that a prisoner described in
7 subsection (7) (b) or (c) sentenced to imprisonment for life for
8 violating, or attempting or conspiring to violate, section
9 7401(2) (a) (i) of the public health code, 1978 PA 368, MCL 333.7401,
10 has cooperated with law enforcement, the prisoner is subject to the
11 jurisdiction of the parole board and may be released on parole as
12 provided in subsection (7) (b) or (c) 2-1/2 years earlier than the
13 time otherwise indicated in subsection (7) (b) or (c). The prisoner
14 is considered to have cooperated with law enforcement if the court
15 determines on the record that the prisoner had no relevant or
16 useful information to provide. The court shall not make a
17 determination that the prisoner failed or refused to cooperate with
18 law enforcement on grounds that the defendant exercised his or her
19 constitutional right to trial by jury. If the court determines at
20 sentencing that the defendant cooperated with law enforcement, the
21 court shall include its determination in the judgment of sentence.

22 (13) ~~Notwithstanding~~**Except for a prisoner granted parole**
23 **under section 35(10) and notwithstanding** subsections (1) and (2), a
24 prisoner convicted of violating, or attempting or conspiring to
25 violate, section 7401(2) (a) (i) or 7403(2) (a) (i) of the public health
26 code, 1978 PA 368, MCL 333.7401 and 333.7403, whose offense
27 occurred before March 1, 2003, and who was sentenced to a term of
28 years, is eligible for parole after serving 20 years of the
29 sentence imposed for the violation if the individual has another



1 serious crime or 17-1/2 years of the sentence if the individual
 2 does not have another conviction for a serious crime, or after
 3 serving the minimum sentence imposed for that violation, whichever
 4 is less.

5 (14) ~~Notwithstanding~~ **Except for a prisoner granted parole**
 6 **under section 35(10) and notwithstanding** subsections (1) and (2), a
 7 prisoner who was convicted of violating, or attempting or
 8 conspiring to violate, section 7401(2)(a)(ii) or 7403(2)(a)(ii) of
 9 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403,
 10 whose offense occurred before March 1, 2003, and who was sentenced
 11 according to those sections as they existed before March 1, 2003,
 12 is eligible for parole after serving the minimum of each sentence
 13 imposed for that violation or 10 years of each sentence imposed for
 14 that violation, whichever is less.

15 (15) ~~Notwithstanding~~ **Except for a prisoner granted parole**
 16 **under section 35(10) and notwithstanding** subsections (1) and (2), a
 17 prisoner who was convicted of violating, or attempting or
 18 conspiring to violate, section 7401(2)(a)(iii) or 7403(2)(a)(iii) of
 19 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403,
 20 whose offense occurred before March 1, 2003, and who was sentenced
 21 according to those sections as they existed before March 1, 2003,
 22 is eligible for parole after serving the minimum of each sentence
 23 imposed for that violation or 5 years of each sentence imposed for
 24 that violation, whichever is less.

25 (16) ~~Notwithstanding~~ **Except for a prisoner granted parole**
 26 **under section 35(10) and notwithstanding** subsections (1) and (2), a
 27 prisoner who was convicted of violating, or attempting or
 28 conspiring to violate, section 7401(2)(a)(iv) or 7403(2)(a)(iv) of
 29 the public health code, 1978 PA 368, MCL 333.7401 and 333.7403,



1 whose offense occurred before March 1, 2003, who was sentenced
 2 according to those sections of law as they existed before March 1,
 3 2003 to consecutive terms of imprisonment for 2 or more violations
 4 of section 7401(2) (a) or 7403(2) (a) of the public health code, 1978
 5 PA 368, MCL 333.7401 and 333.7403, is eligible for parole after
 6 serving 1/2 of the minimum sentence imposed for each violation of
 7 section 7401(2) (a) (iv) or 7403(2) (a) (iv) of the public health code,
 8 1978 PA 368, MCL 333.7401 and 333.7403. This subsection applies
 9 only to sentences imposed for violations of section 7401(2) (a) (iv)
 10 or 7403(2) (a) (iv) of the public health code, 1978 PA 368, MCL
 11 333.7401 and 333.7403, and does not apply if the sentence was
 12 imposed for a conviction for a new offense committed while the
 13 individual was on probation or parole.

14 (17) ~~Notwithstanding~~ **Except for a prisoner granted parole**
 15 **under section 35(10) and notwithstanding** subsections (1) and (2), a
 16 prisoner who was convicted of violating, or attempting or
 17 conspiring to violate, section 7401(2) (a) (ii) or (iii) or
 18 7403(2) (a) (ii) or (iii) of the public health code, 1978 PA 368, MCL
 19 333.7401 and 333.7403, who had a prior conviction for a violation
 20 of section 7401(2) (a) (ii) or (iii) or 7403(2) (a) (ii) or (iii) of the
 21 public health code, 1978 PA 368, MCL 333.7401 and 333.7403, and who
 22 was sentenced to life without parole under section 7413(1) of the
 23 public health code, 1978 PA 368, MCL 333.7413, according to that
 24 section as it existed before ~~the effective date of the amendatory~~
 25 ~~act that added this subsection~~ **March 28, 2018** is eligible for
 26 parole after serving 5 years of each sentence imposed for that
 27 violation.

28 (18) The parole board shall provide notice to the prosecuting
 29 attorney of the county in which the prisoner was convicted before



1 granting parole to the prisoner under subsection (13), (14), (15),
2 (16), or (17) or under section 35(10). The parole board shall
3 provide the relevant medical records to the prosecuting attorney of
4 the county in which the prisoner was convicted for a prisoner being
5 considered for parole under section 35(10) at the same time the
6 parole board provides the notice required under this subsection.
7 The parole board shall also provide notice to any known victim or,
8 in the case of a homicide, the victim's immediate family, that it
9 is considering a prisoner for parole under section 35(10) at the
10 same time it provides notice to the prosecuting attorney under this
11 subsection.

12 (19) The prosecuting attorney or victim or, in the case of a
13 homicide, the victim's immediate family, may object to the parole
14 board's decision to recommend parole by filing a motion in the
15 circuit court in the county in which the prisoner was convicted
16 within 30 days of receiving notice under subsection (18). Upon
17 notification under subsection (18) and request by the victim, or,
18 in the case of a homicide, the victim's immediate family, the
19 prosecuting attorney must confer with the victim, or in the case of
20 a homicide, the victim's immediate family, before making a decision
21 regarding whether or not to object to the parole board's
22 determination. A motion filed under this subsection must be heard
23 by the sentencing judge or the judge's successor in office. The
24 prosecuting attorney shall inform the parole board if a motion was
25 filed under this subsection. A prosecutor who files a motion under
26 this subsection may seek an independent medical examination of the
27 prisoner being considered for parole under section 35(10). If an
28 appeal is initiated under this subsection, A subsequent appeal
29 under subsection (11) may not be initiated upon the granting of



1 parole.

2 (20) Both of the following apply to a hearing conducted on a
3 motion filed under subsection (19):

4 (a) The prosecutor and the parole board may present evidence
5 in support of or in opposition to the determination that a prisoner
6 is medically frail, including the results of any independent
7 medical examination.

8 (b) The sentencing judge or the judge's successor shall
9 determine whether the prisoner is eligible for parole as a result
10 of being medically frail.

11 (21) The decision of the sentencing judge or the judge's
12 successor on a motion filed under subsection (19) is binding on the
13 parole board with respect to whether a prisoner must be considered
14 medically frail or not. However, the decision of the sentencing
15 judge or the judge's successor is subject to appeal by leave to the
16 court of appeals granted to the department, the prosecuting
17 attorney, or the victim or victim's immediate family in the case of
18 a homicide.

19 (22) ~~(19)~~As used in this section:

20 (a) "Medically frail" means that term as defined in section
21 35(22).

22 (b) ~~(a)~~"Serious crime" means violating or conspiring to
23 violate article 7 of the public health code, 1978 PA 368, MCL
24 333.7101 to 333.7545, that is punishable by imprisonment for more
25 than 4 years, or an offense against a person in violation of
26 section 83, 84, 86, 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397,
27 520b, 520c, 520d, 520g, 529, 529a, or 530 of the Michigan penal
28 code, 1931 PA 328, MCL 750.83, 750.84, 750.86, 750.87, 750.88,
29 750.89, 750.316, 750.317, 750.321, 750.349, 750.349a, 750.350,



1 750.397, 750.520b, 750.520c, 750.520d, 750.520g, 750.529, 750.529a,
2 and 750.530.

3 (c) ~~(b)~~—"State correctional facility" means a facility that
4 houses prisoners committed to the jurisdiction of the department.

5 Enacting section 1. This amendatory act takes effect 90 days
6 after the date it is enacted into law.

7 Enacting section 2. This amendatory act does not take effect
8 unless House Bill No. 4129 of the 100th Legislature is enacted into
9 law.

