

**SUBSTITUTE FOR
HOUSE BILL NO. 4557**

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending section 33e (MCL 791.233e), as amended by 2022 PA 28,
and by adding section 34e.

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) ~~to~~ **for both of the**
3 **following:**

4 **(a) To** govern the exercise of the parole board's discretion
5 under sections 34 and 35 as to the release of prisoners on parole
6 under this act. The ~~purpose of the parole guidelines is to~~ **must**
7 assist the parole board in making objective, evidence-based release
8 decisions that enhance the public safety.



1 **(b) For use in a hearing under section 27c of chapter IX of**
2 **the code of criminal procedure, 1927 PA 175, MCL 769.27c.**

3 (2) In developing the parole guidelines, the department shall
4 consider factors including, but not limited to, the following:

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

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

8 (c) The prisoner's institutional conduct.

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

15 (e) Other relevant factors as determined by the department, if
16 not otherwise prohibited by law.

17 (3) In developing the parole guidelines, the department may
18 consider both of the following factors:

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

20 (b) The prisoner's age.

21 (4) The department shall ensure that the parole guidelines do
22 not create disparities in release decisions based on race, color,
23 national origin, gender, religion, or disability.

24 (5) The department shall promulgate rules under the
25 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
26 24.328, that prescribe the parole guidelines.

27 (6) The parole board may depart from the parole guidelines by
28 denying parole to a prisoner who has a high probability of parole
29 as determined under the parole guidelines or by granting parole to



1 a prisoner who has a low probability of parole as determined under
2 the parole guidelines. A departure under this subsection must be
3 for substantial and compelling objective reasons stated in writing.
4 The parole board shall not use a prisoner's gender, race,
5 ethnicity, alienage, national origin, or religion to depart from
6 the recommended parole guidelines.

7 (7) Substantial and compelling objective reasons for a
8 departure from the parole guidelines for a prisoner with high
9 probability of parole are limited to the following circumstances:

10 (a) The prisoner exhibits a pattern of ongoing behavior while
11 incarcerated indicating that ~~he or she~~ **the prisoner** would be a
12 substantial risk to public safety, including major misconducts or
13 additional criminal convictions.

14 (b) The prisoner refuses to participate in programming ordered
15 by the department to reduce the prisoner's risk. A prisoner may not
16 be considered to have refused programming if unable to complete
17 programming due to factors beyond ~~his or her~~ **the prisoner's**
18 control.

19 (c) There is verified objective evidence of substantial harm
20 to a victim that could not have been available for consideration at
21 the time of sentencing.

22 (d) The prisoner has threatened harm to another person if
23 released.

24 (e) There is objective evidence of post-sentencing conduct,
25 not already scored under the parole guidelines, that the prisoner
26 would present a high risk to public safety if paroled.

27 (f) The prisoner is a suspect in an unsolved criminal case
28 that is being actively investigated.

29 (g) The prisoner has a pending felony charge or is subject to



1 a detainer request from another jurisdiction.

2 (h) The prisoner has not yet completed programming ordered by
3 the department to reduce the prisoner's risk, and the programming
4 is not available in the community and the risk cannot be adequately
5 managed in the community before completion.

6 (i) The release of the prisoner is otherwise barred by law.

7 (j) The prisoner fails to present a sufficient parole plan
8 adequately addressing ~~his or her~~ **the prisoner's** identified risks
9 and needs to ensure that ~~he or she~~ **the prisoner** will not present a
10 risk to public safety if released on parole. If a prisoner is
11 denied parole under this subdivision, the parole board must provide
12 the prisoner a detailed explanation of the deficiencies in the
13 parole plan so that the prisoner may address the deficiencies
14 before ~~his or her~~ **the prisoner's** next review.

15 (k) The prisoner has received a psychological evaluation in
16 the past 3 years indicating the prisoner would present a high risk
17 to public safety if paroled.

18 (8) The parole board may deny parole for up to 1 year to a
19 prisoner who was denied parole under subsection (7)(h) to allow for
20 the completion of programming ordered by the department. A prisoner
21 denied parole under subsection (7)(h) must receive parole
22 consideration within 30 days after the completion of the
23 programming.

24 (9) Unless a waiver is issued under subsection (10), the
25 parole board shall conduct a review of a prisoner, except for a
26 prisoner serving a life sentence, who has been denied parole as
27 follows:

28 (a) If the prisoner scored high or average probability of
29 parole, not less than annually.



1 (b) If the prisoner scored low probability of parole, not less
2 than every 2 years until a score of high or average probability of
3 parole is attained.

4 (10) The parole board may conduct a subsequent review of a
5 prisoner, except for a prisoner serving a life sentence, not more
6 than 5 years after the review denying the prisoner parole, if a
7 majority of the parole board agrees to and signs a written
8 recommendation to waive the requirements under subsection (9). A
9 waiver under this subsection may be issued only if a majority of
10 the parole board finds and includes a statement in the waiver that
11 all of the following apply:

12 (a) The parole board had no interest in granting the prisoner
13 parole in the review denying the prisoner parole.

14 (b) The parole review requirements under subsection (9) would
15 cause additional harm to a victim of a crime for which the prisoner
16 was committed, or to the victim's surviving family members.

17 (c) The harm described under subdivision (b) can be mitigated
18 only by waiving the parole review process under subsection (9).

19 (d) Unique circumstances and factors contributed to the
20 decision to deny the prisoner parole and to waive the parole review
21 process under subsection (9).

22 (11) Not less than once every 2 years, the department shall
23 review the correlation between the implementation of the parole
24 guidelines and the recidivism rate of paroled prisoners, and shall
25 submit to the joint committee on administrative rules any proposed
26 revisions to the administrative rules that the department considers
27 appropriate after conducting the review.

28 (12) By March 1 of each year, the department shall report to
29 the standing committees of the senate and the house of



1 representatives having jurisdiction of corrections issues all of
2 the following information:

3 (a) The number of prisoners who scored high probability of
4 parole and were granted parole during the preceding calendar year.

5 (b) The number of prisoners who scored high probability of
6 parole and for whom parole was deferred to complete necessary
7 programming during the preceding calendar year.

8 (c) The number of prisoners who scored high probability of
9 parole and were incarcerated at least 6 months past their first
10 parole eligibility date as of December 31 of the preceding calendar
11 year.

12 (d) The number of prisoners who scored high probability of
13 parole and were denied parole for a substantial and compelling
14 objective reason, or substantial and compelling objective reasons,
15 under subsection (7) during the preceding calendar year. This
16 information must be provided with a breakdown of parole denials for
17 each of the substantial and compelling objective reasons under
18 subsection (7).

19 (e) The number of prisoners who scored high probability of
20 parole and were denied parole whose controlling offense is in each
21 of the following groups:

22 (i) Homicide.

23 (ii) Sexual offense.

24 (iii) An assaultive offense other than a homicide or sexual
25 offense.

26 (iv) A nonassaultive offense.

27 (v) A controlled substance offense.

28 (f) Of the total number of prisoners subject to subsection (7)
29 who scored high probability of parole and were denied parole, the



1 number who have served the following amount of time after
2 completing their minimum sentence:

3 (i) Less than 1 year.

4 (ii) One year or more but less than 2 years.

5 (iii) Two years or more but less than 3 years.

6 (iv) Three years or more but less than 4 years.

7 (v) Four or more years.

8 (g) The number of prisoners issued a waiver under subsection
9 (10).

10 (13) The department shall immediately advise the standing
11 committees of the senate and house of representatives having
12 jurisdiction of corrections issues of any changes made to the
13 scoring of the parole guidelines after December 12, 2018, including
14 a change in the number of points that define "high probability of
15 parole".

16 (14) Subsections (6), (7), and (8), as amended or added by
17 2018 PA 339, apply only to prisoners whose controlling offense was
18 committed on or after December 12, 2018. Subsections (7) and (8) do
19 not apply to a prisoner serving a life sentence, regardless of the
20 date of ~~his or her~~ **the prisoner's** controlling offense.

21 **Sec. 34e. The department shall provide notice to a prisoner**
22 **whose minimum term of imprisonment is 20 or more years as provided**
23 **under section 27b of chapter IX of the code of criminal procedure,**
24 **1927 PA 175, MCL 769.27b.**

25 Enacting section 1. This amendatory act does not take effect
26 unless House Bill No. 4556 of the 102nd Legislature is enacted into
27 law.

