

HOUSE BILL NO. 6090

November 13, 2024, Introduced by Reps. Dievendorf, Rheingans, Wilson, Hood, Morgan, Price, Brenda Carter, Hope, DeBoer, Edwards, O'Neal, Neeley, Young, McKinney and Hoskins and referred to the Committee on Criminal Justice.

A bill to amend 1953 PA 232, entitled "Corrections code of 1953," by amending sections 14a, 52, 53, and 68a (MCL 791.214a, 791.252, 791.253, and 791.268a), section 14a as added by 2020 PA 309 and section 68a as added by 2001 PA 8.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 14a. (1) The department shall create a family
2 reunification policy. The family reunification policy must include
3 the creation of a permanent family advisory board that consists of
4 not fewer than 11 and not more than 16 members, including the

1 following:

2 (a) One individual designated by the director who is an
3 employee of the department.

4 (b) The legislative corrections ombudsman.

5 (c) Not fewer than 4 or more than 6 individuals who are family
6 members of individuals currently incarcerated in ~~Michigan~~**this**
7 **state**.

8 (d) Not fewer than 1 or more than 3 individuals who are family
9 members of individuals who were formerly incarcerated in
10 ~~Michigan~~**this state**.

11 (e) Not fewer than 1 individual who has a parent formerly or
12 currently incarcerated in ~~Michigan~~**this state**.

13 (f) Not fewer than 1 or more than 2 individuals who were
14 formerly incarcerated in ~~Michigan~~**this state**.

15 (g) One individual who is a social worker who has training and
16 expertise dealing with mental health issues and experience working
17 with formerly or currently incarcerated individuals.

18 (h) One individual who is an advocate for or mentor to
19 individuals incarcerated in ~~Michigan~~**this state**.

20 (2) In addition to regular meetings of the family advisory
21 board, the board shall hold at least 2 public informational
22 meetings each year for family members and the public to provide
23 comments. The public informational meetings for family members and
24 the public to provide comments must not be held in the same region
25 of this state.

26 (3) Members of the family advisory board shall serve without
27 compensation. However, members of the board may be reimbursed for
28 their actual and necessary expenses incurred in the performance of
29 their official duties as members of the board.

1 (4) The family advisory board shall do all of the following:

2 (a) Assist the department by providing feedback regarding
3 policies and procedures that impact family reunification during and
4 after incarceration.

5 (b) Assist and advise the department regarding the development
6 of programs that support family reunification during and after
7 incarceration.

8 (c) Enhance communication between the department and families
9 regarding issues that impact a broad range of incarcerated and
10 formerly incarcerated individuals and their families, including,
11 but not limited to, gathering information from individuals in the
12 region and across the state with family members who are or have
13 been incarcerated, including a review of comment cards submitted at
14 individual correctional facilities.

15 (d) Identify barriers concerning family reunification during
16 and after incarceration.

17 (e) File an annual report with the chairs of the committees of
18 the senate and house of representatives concerned with the
19 department and criminal justice issues regarding its activities
20 under this section. The report must be filed not later than October
21 1 of each year.

22 (5) The department shall provide any staffing necessary for
23 the family advisory board to fulfill its duties under this section.

24 (6) The family advisory board may, in its discretion, create
25 regional committees or facility-focused family councils to carry
26 out its duties.

27 (7) The department shall provide information about the family
28 advisory board on its website and in the waiting rooms of
29 correctional facilities, including the board's contact information

1 for obtaining information and assistance with family-related
2 issues.

3 **(8) The department shall provide the family advisory board**
4 **with any draft of proposed policy changes that affect a prisoner's**
5 **visitation with family. A draft under this subsection must be**
6 **provided with sufficient time to allow the family advisory board to**
7 **provide comments on the draft to the department.**

8 Sec. 52. The following procedures ~~shall~~ apply to each prisoner
9 hearing conducted ~~pursuant to~~ **under** section 51(2):

10 (a) The parties ~~shall~~ **must** be given an opportunity for an
11 evidentiary hearing without undue delay. **If a prisoner is denied**
12 **access to a video of a visit under subdivision (h) and the**
13 **legislative corrections ombudsman is provided access to the video**
14 **as described under section 68a, the evidentiary hearing regarding**
15 **the prisoner's visitation must not take place until the legislative**
16 **corrections ombudsman has sufficient time to review the video of**
17 **the visit.**

18 (b) The parties shall be given reasonable notice of the
19 hearing.

20 (c) If a party fails to appear at a hearing after proper
21 service of notice, the hearings officer, if an adjournment is not
22 granted, may proceed with the hearing and make a decision in the
23 absence of the party.

24 (d) Each party ~~shall~~ **must** be given an opportunity to present
25 evidence and oral and written arguments on issues of fact.

26 (e) A prisoner may not cross-examine a witness, but may submit
27 rebuttal evidence. A prisoner may also submit written questions to
28 the hearings officer to be asked of a witness or witnesses. The
29 hearings officer may present these questions to and receive answers

1 from the witness or witnesses. The questions presented and the
2 evidence received in response to these questions ~~shall become~~ **are** a
3 part of the record. A hearings officer may refuse to present the
4 prisoner's questions to the witness or witnesses. If the hearings
5 officer does not present the questions to the witness or witnesses,
6 the reason for the decision not to present the questions ~~shall~~ **must**
7 be entered into the record.

8 (f) The hearings officer may administer an oath or affirmation
9 to a witness in a matter before the officer, certify to official
10 acts, and take depositions.

11 (g) The hearings officer may admit and give probative effect
12 to evidence of a type commonly relied upon by reasonably prudent
13 persons in the conduct of their affairs. Irrelevant, immaterial, or
14 unduly repetitious evidence may be excluded. The reason for the
15 exclusion of the evidence ~~shall~~ **must** be entered into the record. An
16 objection to an offer of evidence may be made and ~~shall~~ **must** be
17 noted in the record. The hearings officer, for the purpose of
18 expediting a hearing and if the interest of the parties are not
19 substantially prejudiced by the action, may provide for the
20 submission of all or part of the evidence in written form.

21 (h) Evidence, including records and documents in possession of
22 the department ~~of which~~ **that** the hearings officer wishes to avail
23 ~~himself or herself,~~ **shall include must** be offered and made a part
24 of the record. **If a hearing is conducted as a result of a visitor**
25 **restriction and if the visitor restriction is due to a specific**
26 **visit, the prisoner must be provided access to the video of the**
27 **visit as provided under section 68a.** A hearings officer may deny
28 access to the evidence to a party if the hearings officer
29 determines that access may be dangerous to a witness or disruptive

1 of normal prison operations. The reason for the denial ~~shall~~**must**
 2 be entered into the record **and, if the evidence is a video of a**
 3 **visit, must be provided to the prisoner in writing before the**
 4 **hearing.**

5 (i) The hearings conducted under this chapter ~~shall~~**must** be
 6 conducted in an impartial manner. On the filing in good faith by a
 7 party of a timely and sufficient affidavit of personal bias or
 8 disqualification of a hearings officer, the department shall
 9 determine the matter as a part of the record of the hearing, and
 10 the determination ~~shall be~~**is** subject to judicial review at the
 11 conclusion of the hearing. If a hearings officer is disqualified or
 12 it is impracticable for the hearings officer to continue the
 13 hearing, another hearings officer may be assigned to continue the
 14 hearing unless it is shown that substantial prejudice to a party
 15 will result from the continuation.

16 (j) Except as otherwise authorized by subdivision (e), a
 17 hearings officer, after the notice of the hearing is given, shall
 18 not communicate, directly or indirectly, in connection with an
 19 issue of fact, with a person or party, except on notice and
 20 opportunity for all parties to participate. A hearings officer may
 21 communicate with other members of the department and may have the
 22 aid and advice of department employees other than employees ~~which~~
 23 **who** have been or are engaged in investigating or prosecuting
 24 functions in connection with the hearing or a factually related
 25 matter ~~which~~**that** may be the subject of a hearing.

26 (k) ~~A~~**Except as otherwise provided under this subdivision, a**
 27 final decision or order of a hearings officer in a hearing ~~shall~~
 28 **must** be made ~~, within a reasonable period,~~**not more than 7 days**
 29 **after the hearing, must be** in writing or stated in the record, ~~and~~

1 ~~shall~~**must** include findings of fact, and ~~shall~~**must** state any
2 sanction to be imposed against a prisoner as a direct result of a
3 hearing conducted under this chapter. **A final decision or order may**
4 **be made more than 7 days but not more than 14 days after the**
5 **hearing if the hearings officer determines that more information or**
6 **a review of a video is necessary to make the final decision or**
7 **order.** The final decision ~~shall~~**must** be made on the basis of a
8 preponderance of the evidence presented. Findings of fact ~~shall~~
9 **must** be based exclusively on the evidence and on matters officially
10 noticed. Findings of fact, if set forth in statutory language,
11 ~~shall~~**must** be accompanied by a concise and explicit statement of
12 the underlying facts supporting them. A decision or order ~~shall~~
13 **must** not be made except ~~upon~~**on the** consideration of the record as
14 a whole or a portion of the record as may be cited by a party to
15 the proceeding and as supported by and pursuant to competent,
16 material, and substantial evidence. A copy of the decision or order
17 ~~shall~~**must** be delivered or mailed immediately to the prisoner. The
18 final disposition ~~shall~~**must** be posted for the information of the
19 reporting officer.

20 Sec. 53. (1) The department shall prepare an official record
21 of a hearing ~~which shall~~**that must** include:

22 (a) Questions and offers of proof, objections, and rulings on
23 the objections.

24 (b) Matters officially noticed, except a matter so obvious
25 that a record would not serve a useful purpose.

26 (c) A decision or order by the hearings officer.

27 (2) The official record ~~shall~~**must** not include evidence,
28 access to which a hearings officer has determined would be
29 disruptive of normal prison operations. However, on an appeal from

1 a final decision made to a court of this state, that evidence ~~shall~~
2 **must** be included in the official record.

3 (3) If a hearing is conducted as a result of a visitor
4 restriction under section 68a(3)(d) and if the hearings officer
5 determines an event described under section 68a(3)(c) did not
6 occur, the decision or order must require the department to
7 initiate an additional visit for the prisoner to replace the visit
8 that was terminated under section 68a(3)(d).

9 Sec. 68a. (1) Except as otherwise provided in ~~subsection (2),~~
10 a prisoner may be permitted to receive visits from a minor brother,
11 sister, stepbrother, stepsister, half brother, or half sister if
12 that minor is on the prisoner's approved visitor list. **this act, the**
13 **department shall permit a prisoner to receive visits from an**
14 **eligible visitor.**

15 (2) On a prisoner's request, the department shall place an
16 individual on the prisoner's approved visitor list unless the
17 department finds that a visit by the individual is a safety and
18 security risk to the correctional facility. An individual who was
19 convicted of a criminal offense may be placed on an approved
20 visitor list if more than 5 years have passed since the individual
21 has successfully completed the sentence for the criminal offense,
22 including any probation or parole.

23 (3) ~~(2) Notwithstanding subsection (1), the~~ **The** department may
24 do any of the following **in placing a limit on a prisoner receiving**
25 **a visit:**

26 (a) ~~Place~~ **Subject to this section, place** limits on visiting
27 hours, establish reasonable rules of conduct, and establish uniform
28 quotas at each ~~institution~~ **correctional facility** for visits to
29 prisoners to promote order and security in ~~the institutions~~ **each**

1 **correctional facility** and to prevent interference with
2 institutional routine or disruption of a prisoner's programming.

3 (b) Establish requirements for who must accompany ~~the~~ a minor
4 on ~~the~~ a visit **with a prisoner**.

5 (c) ~~Deny,~~ **Subject to this section, deny or restrict, or**
6 ~~terminate visits as determined for not more than 1 year, a prisoner~~
7 **from receiving in-person visits or a specified visitor from**
8 **visiting a prisoner, if the denial or restriction is** necessary by
9 ~~the department for the order~~ **safety** and security of the
10 ~~institution.~~ **correctional facility as evidenced by the occurrence of**
11 **1 or more of the following events:**

12 (i) **The specified visitor conspired or attempted to bring, or**
13 **brought, contraband into the correctional facility.**

14 (ii) **The prisoner or the specified visitor engaged in sexual**
15 **activity during a visit.**

16 (iii) **The prisoner engaged in qualified violence during a visit.**

17 (iv) **The specified visitor engaged in qualified violence during**
18 **a visit or during the visitation screening process.**

19 (v) **The prisoner or specified visitor had contraband in the**
20 **prisoner's or specified visitor's possession during a visit.**

21 (vi) **The prisoner attempted an escape from confinement.**

22 (vii) **The specified visitor attempted to assist or assisted**
23 **with an escape of a prisoner from confinement.**

24 (d) **Subject to subsection (8), terminate a visit if necessary**
25 **for the safety and security of the correctional facility due to the**
26 **suspected occurrence of an event listed under subdivision (c). If a**
27 **visit is terminated under this subdivision and it is later**
28 **determined an event listed under subdivision (c) did not occur, the**
29 **department shall initiate an additional visit as provided under**

1 section 53 and the eligible visitor must be permitted the
2 additional visit.

3 (e) Deny the use of electronic communication for a visit with
4 a prisoner and an eligible visitor due to technology failure, but
5 only if the denied visit does not count for determining the number
6 of visits the prisoner may receive and any money is refunded in the
7 same manner as described in subsection (7) (b).

8 (f) Require no more than 3 days' advance notice to schedule an
9 in-person visit with a prisoner.

10 (4) The department shall not promulgate or enforce a rule that
11 provides a process to permanently prohibit a prisoner from
12 receiving visits from eligible visitors. The department shall
13 identify any prisoner who had a restriction or denial of visitation
14 placed before the effective date of the amendatory act that added
15 this subsection and may only continue a restriction or denial of
16 visitation that complies with this section. The department shall
17 not restrict or deny a prisoner from receiving a visit from an
18 eligible visitor due to a managerial or staffing decision.

19 (5) The department shall enforce a visitation policy that
20 promotes a prisoner's interaction with eligible visitors, that is
21 consistent with the family reunification policy developed under
22 section 14a, and that allows for regular communication by in-person
23 visitation, telephone calls, and video, digital, and mail
24 communication between the prisoner and eligible visitors. Not more
25 than 6 months after the effective date of the amendatory act that
26 added this subsection, the department shall post the policy to the
27 department's website and in each correctional facility law library,
28 day room, waiting room, and visiting room, and shall make the
29 policy available in information provided to family members of a

1 prisoner.

2 (6) Unless the visit is terminated under subsection (3) (d) or
3 (7), a visit between a prisoner and an eligible visitor in person
4 must not be less than 2 hours and the department shall make
5 reasonable efforts to increase the time to more than 2 hours. The
6 department may only begin counting the time for any visit,
7 including a visit in person or by video communication, once the
8 eligible visitor is in the presence of the prisoner.

9 (7) In addition to terminating a visit under subsection
10 (3) (d), shift command may terminate a visit between a prisoner and
11 an eligible visitor if shift command determines a safety and
12 security risk necessitates the termination and provides a written
13 reason for the termination to the prisoner and eligible visitor. If
14 a visit is terminated under this subsection, the department shall
15 do all of the following:

16 (a) Initiate the prisoner and the eligible visitor having an
17 additional visit in the same format to replace the visit that was
18 terminated.

19 (b) If the visit was by video communication that required
20 payment from the prisoner or eligible visitor, ensure the prisoner
21 or eligible visitor is refunded the money paid for the video
22 communication in not more than 24 hours after the visit was
23 terminated.

24 (c) Not more than 30 days after the termination, notify the
25 family advisory board of the termination of the visit.

26 (8) Not more than 14 days after the department determines an
27 event described under subsection (3) (c) occurred, the department
28 shall provide notice of the determination to the relevant prisoner
29 and any specified visitor involved in the occurrence. Except as

1 provided under section 52(h), a video of a visit that will be used
2 as evidence in a hearing to deny or restrict visitation must be
3 made accessible to the prisoner or specified visitor. If access to
4 a video of a visit is denied to the prisoner under section 52(h) or
5 is denied to the specified visitor because access would create a
6 safety and security risk to the correctional facility, the
7 department shall, not more than 72 hours after the visit is
8 terminated, provide the legislative corrections ombudsman with
9 access to that video. The legislative corrections ombudsman shall
10 provide a report to the prisoner, visitor, and hearings officer
11 that summarizes the legislative corrections ombudsman's findings
12 from a review of the video.

13 (9) Unless the posting will create a safety or security risk
14 in a correctional facility, the department shall post a conspicuous
15 notice about prisoner visitation on its website and any social
16 media platform used by the department not more than 2 hours after
17 the department restricts prisoner visitation at a correctional
18 facility due to a disruption or emergency.

19 (10) If the department determines an eligible visitor brought
20 contraband into the correctional facility and that contraband is
21 also an innocuous item, the department shall provide that eligible
22 visitor with an opportunity to properly secure or dispose of the
23 innocuous item in order to proceed with the visit with the
24 prisoner. An eligible visitor who properly secures or disposes of
25 the item under this subsection is not in violation of
26 subsection(3) (c) (i) .

27 (11) By April 1, 2026, and every year thereafter, the
28 department shall provide the governor, the family advisory board,
29 and the legislature, including, but not limited to, the committees

1 in the house of representatives and senate concerned with issues
2 related to or funding for criminal justice or corrections, the
3 house fiscal agency, the senate fiscal agency, and the legislative
4 corrections ombudsman, with a report on prisoner visitation that
5 includes all of the following information categorized by the race
6 of the prisoner and by each correctional facility:

7 (a) Visitor restrictions imposed by type.

8 (b) The number of prisoners who had a hearing for a visitor
9 restriction under section 51(2) and the outcome of each hearing.

10 (c) The number of prisoners who have received a visit from a
11 minor.

12 (12) The department shall provide training to employees on the
13 importance of prisoner visitation with families, on responding to
14 prisoner visitation with cultural sensitivity, and on effective
15 communication with eligible visitors during a prisoner visitation.

16 (13) ~~(3)~~As used in this section: ~~"minor"~~

17 (a) "Contraband" means items that the department determines
18 could pose a safety and security risk to a correctional facility.
19 Contraband does not include alcohol that is located in a locked
20 vehicle and that is not intended to be brought into a correctional
21 facility.

22 (b) "Eligible visitor" means an individual on the prisoner's
23 approved visitor list under subsection (2).

24 (c) "Innocuous item" means an item that cannot produce an
25 injury.

26 (d) "Minor" means ~~a person~~ an individual who is less than 18
27 years of age.

28 (e) "Qualified violence" means the occurrence of any of the
29 following acts by an individual that is not an act of self-defense:

1 (i) Causing or attempting to cause physical or mental harm to
2 another individual.

3 (ii) Placing another individual in fear of physical or mental
4 harm.

5 (iii) Causing or attempting to cause another individual to
6 engage in involuntary sexual activity by force, threat of force, or
7 duress.

8 (iv) Engaging in activity toward another individual that would
9 cause a reasonable individual to feel terrorized, frightened,
10 intimidated, threatened, harassed, or molested.

11 (f) "Sexual activity" means sexual intercourse; cunnilingus;
12 fellatio; or other touching, either directly or through clothing,
13 of the vulva, penis, scrotum, anus, groin, breast, or buttocks.

14 Enacting section 1. This amendatory act takes effect 6 months
15 after the date it is enacted into law.