CORRECTIONS CODE OF 1953
Act 232 of 1953

AN ACT to revise, consolidate, and codify the laws relating to probationers and probation officers, to pardons, reprieves, commutations, and paroles, to the administration of correctional institutions, correctional farms, and probation recovery camps, to prisoner labor and correctional industries, and to the supervision and inspection of local jails and houses of correction; to provide for the siting of correctional facilities; to create a state department of corrections, and to prescribe its powers and duties; to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are transferred by this act; to allow for the operation of certain facilities by private entities; to prescribe the powers and duties of certain other state departments and agencies; to provide for the creation of a local lockup advisory board; to provide for a lifetime electronic monitoring program; to prescribe penalties for the violation of the provisions of this act; to make certain appropriations; to repeal certain parts of this act on specific dates; and to repeal all acts and parts of acts inconsistent with the provisions of this act.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1980, Act 303, Imd. Eff. Nov. 26, 1980;—Am. 1984, Act 102, Imd. Eff. May 8, 1984;—Am. 1988, Act 510, Eff. Mar. 30, 1989;—Am. 1992, Act 22, Imd. Eff. Mar. 19, 1992;—Am. 1993, Act 184, Imd. Eff. Sept. 30, 1993;—Am. 1996, Act 164, Eff. Mar. 31, 1997;—Am. 2006, Act 172, Eff. Aug. 28, 2006.

Compiler's note: For transfer of the Department of Corrections to a new Department of Corrections, see E.R.O. No. 1991-12, compiled at MCL 791.302 of the Michigan Compiled Laws.

For abolition of the Michigan Corrections Commission and transferring its powers, duties, and functions to the Director of the new Department of Corrections with the exception that the power to appoint the Director shall be vested with the Governor, see E.R.O. No. 1991-12, compiled at MCL 791.302 of the Michigan Compiled Laws.

Popular name: Department of Corrections Act

The People of the State of Michigan enact:

CHAPTER I
DEPARTMENT OF CORRECTIONS.

791.201 State department of corrections; creation; powers and duties; administration; Michigan corrections commission; appointment, qualifications, and terms of members; officers and assistants; director as executive head; vacancy; compensation and expenses; executive office; office accommodations; meetings.

Sec. 1. There is hereby created a state department of corrections, hereinafter called the department, which shall possess the powers and perform the duties granted and conferred. The department shall consist of and be administered by a commission of 6 members appointed by the governor, by and with the advice and consent of the senate, to be known as the Michigan corrections commission, hereinafter called the commission, not more than 3 of whom shall be members of the same political party, each of whom shall qualify by taking the constitutional oath of office, and filing the same in the office of the secretary of state, and of such other officers and assistants as may be appointed or employed in the department, including a director as its executive head. A person holding a position either state or federal, or a person drawing a salary from a municipal unit of the state, shall not be eligible for appointment to the commission, without having first resigned from that position. The term of office of each member of the commission shall be 6 years. The governor shall fill a vacancy occurring in the membership of the commission for the unexpired term only, and for cause established on hearing may remove a member. Each member of the commission shall hold office until his successor shall be appointed and shall qualify. The per diem compensation of the commission and the schedule for reimbursement of expenses shall be established annually by the legislature. The department and commission shall have its executive office at Lansing. The department of management and budget shall provide suitable office accommodations. Meetings of the commission may be held at other suitable places as the commission may designate.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1975, Act 59, Imd. Eff. May 20, 1975.

Compiler's note: For transfer of the Department of Corrections to a new Department of Corrections, see E.R.O. No. 1991-12, compiled at MCL 791.302 of the Michigan Compiled Laws.

For abolition of the Michigan Corrections Commission and transferring its powers, duties, and functions to the Director of the new Department of Corrections with the exception that the power to appoint the Director shall be vested with the Governor, see E.R.O. No. 1991-12, compiled at MCL 791.302 of the Michigan Compiled Laws.

For transfer of powers and duties of Michigan parole and commutation board to Michigan parole board within department of corrections, and abolishment of Michigan parole and commutation board, see E.R.O. No. 2011-3, compiled at MCL 791.305.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Transfer of powers: See MCL 791.301.

Popular name: Department of Corrections Act

791.201a Short title.

Sec. 1a. This act shall be known and may be cited as the "corrections code of 1953".

History: Add. 2002, Act 212, Imd. Eff. Apr. 29, 2002.

Popular name: Department of Corrections Act

791.202 Michigan corrections commission; election of chairperson and other officers; meetings; quorum; powers and duties; conducting business at public meeting; notice.

Sec. 2. (1) The commission shall elect annually a chairperson and other officers as it considers expedient. A meeting shall be held not less than once each month or at other times as considered necessary. A majority of the total membership of the commission shall constitute a quorum for the transaction of business. The commission shall constitute the responsible authority for the administration of the correctional facilities, correctional industries, parole, and probation of the state, subject to the limitations set forth in this act. The commission shall determine all matters relating to the unified development of the correctional facilities, correctional industries, parole, and probation of the state and shall coordinate and adjust the agencies and correctional facilities within its jurisdiction so that each shall form an integral part of a general system.

(2) The business which the commission may perform shall be conducted at a public meeting held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1978, Act 413, Imd. Eff. Sept. 28, 1978;—Am. 1987, Act 79, Imd. Eff. June 29, 1987.

Popular name: Department of Corrections Act

791.203 Corrections commission; director of corrections, appointment, qualifications, salary, powers and duties.

Sec. 3. The commission shall appoint a director of corrections who shall be qualified by training and experience in penology. He shall hold office at the pleasure of the commission except that he may be removed for cause and only after a public hearing before the commission. He shall receive such salary as shall be appropriated by the legislature, together with actual and necessary traveling and other expenses. The director shall be the chief administrative officer of the commission and shall be responsible to the commission for the exercise of the powers and duties prescribed and conferred by this act, and for such other powers and duties as may be assigned by the commission, subject at all times to its control. Subject to the provisions of this act, and to the rules and regulations adopted by the commission, the director shall have full power and authority to supervise and control the affairs of the department, and the several bureaus thereof, and he shall carry out the orders of the commission.

History: 1953, Act 232, Eff. Oct. 2, 1953.

Popular name: Department of Corrections Act

791.204 State department of corrections; jurisdiction.

Sec. 4. Subject to constitutional powers vested in the executive and judicial departments of the state, the department shall have exclusive jurisdiction over all of the following:

(a) Probation officers of this state, and the administration of all orders of probation.

(b) Pardons, reprieves, commutations, and paroles.

(c) Penal institutions, correctional farms, probation recovery camps, prison labor and industry, wayward minor programs, and youthful trainee institutions and programs for the care and supervision of youthful trainees.

(d) The lifetime electronic monitoring program established under section 85.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1966, Act 210, Imd. Eff. July 11, 1966;—Am. 2006, Act 172, Eff. Aug. 28, 2006.

Popular name: Department of Corrections Act

791.205 Corrections commission; assistant directors, powers and duties.

Sec. 5. The director, subject to the approval of the commission, shall appoint an assistant director in charge of probation, an assistant director in charge of pardons and paroles, an assistant director in charge of penal institutions, an assistant director in charge of prison industries, and an assistant director in charge of a youth division. The assistant directors shall exercise and perform the respective powers and duties prescribed and

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

conferred by this act, and such other powers and duties as may be assigned by the director, subject at all times to his control.

History: 1953, Act 232, Eff. Oct. 2, 1953.

Popular name: Department of Corrections Act

791.205a Employment or appointment by department of person convicted or charged with felony; prohibition; exception; policy.

Sec. 5a. (1) Except as otherwise provided in this section, an individual who has been convicted of a felony, or who is subject to any pending felony charges, shall not be employed by or appointed to a position in the department.

(2) If records available to the department show that an applicant for employment or appointment has been convicted of a felony or is subject to pending felony charges, the department shall inform the applicant of that fact and of his or her resulting ineligibility for employment or appointment. At the request of the applicant, the department shall permit the applicant to review the relevant portion of the records. If the applicant disputes the accuracy of the records, the department shall allow the applicant a reasonable period of time to contact the responsible agency or agencies in order to correct the alleged inaccuracies, and shall allow the applicant to reapply for employment or appointment if the records, as corrected, would remove the ineligibility imposed by this section.

(3) The department shall establish a policy allowing for the employment or appointment of an individual who has been convicted of a felony to a position within the department if the individual's employment or appointment will not negatively impact public safety or the operation of the department.

(4) The policy developed under subsection (3) shall require an extensive background investigation of the applicant and the written approval of the director before the department may employ or appoint an applicant to a position in the department under subsection (3).

(5) An individual who is employed by or appointed to a position in the department under subsection (3) shall not be dismissed from his or her employment by or appointment in the department solely due to a felony conviction that he or she disclosed to the department prior to his or her employment by or appointment to a position in the department.

(6) Subsection (1) does not apply to an individual employed by or appointed to a position in the department before March 25, 1996.

History: Add. 1996, Act 140, Imd. Eff. Mar. 25, 1996;—Am. 2017, Act 191, Eff. Mar. 7, 2018.

Popular name: Department of Corrections Act

791.206 Rules.

Sec. 6. (1) The director may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to provide for all of the following:

(a) The control, management, and operation of the general affairs of the department.

(b) Supervision and control of probationers and probation officers throughout this state.

(c) The manner in which applications for pardon, reprieve, medical commutation, or commutation shall be made to the governor; the procedures for handling applications and recommendations by the parole board; the manner in which paroles shall be considered, the criteria to be used to reach release decisions, the procedures for medical and special paroles, and the duties of the parole board in those matters; interviews on paroles and for the notice of intent to conduct an interview; the entering of appropriate orders granting or denying paroles; the supervision and control of paroled prisoners; and the revocation of parole.

(d) The management and control of state penal institutions, correctional farms, probation recovery camps, and programs for the care and supervision of youthful trainees separate and apart from persons convicted of crimes within the jurisdiction of the department. Except as provided for in section 62(3), this subdivision does not apply to detention facilities operated by local units of government used to detain persons less than 72 hours. The rules may permit the use of portions of penal institutions in which persons convicted of crimes are detained. The rules shall provide that decisions as to the removal of a youth from the youthful trainee facility or the release of a youth from the supervision of the department shall be made by the department and shall assign responsibility for those decisions to a committee.

(e) The management and control of prison labor and industry.

(f) The director may promulgate rules providing for the creation and operation of a lifetime electronic monitoring program to conduct electronic monitoring of individuals, who have served sentences imposed for certain crimes, following their release from parole, prison, or both parole and prison.

(2) The director may promulgate rules providing for a parole board structure consisting of 3-member panels.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(3) The director may promulgate further rules with respect to the affairs of the department as the director considers necessary or expedient for the proper administration of this act. The director may modify, amend, supplement, or rescind a rule.

(4) The director and the corrections commission shall not promulgate a rule or adopt a guideline that does either of the following:

(a) Prohibits a probation officer or parole officer from carrying a firearm while on duty.

(b) Allows a prisoner to have his or her name changed. If the Michigan supreme court rules that this subdivision is violative of constitutional provisions under the first and fourteenth amendments to the United States constitution and article I, sections 2 and 4 of the state constitution of 1963, the remaining provisions of the code shall remain in effect.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1966, Act 210, Imd. Eff. July 11, 1966;—Am. 1982, Act 314, Imd. Eff. Oct. 15, 1982;—Am. 1984, Act 102, Imd. Eff. May 8, 1984;—Am. 1986, Act 271, Imd. Eff. Dec. 19, 1986;—Am. 1996, Act 104, Eff. Apr. 1, 1996;—Am. 2006, Act 172, Eff. Aug. 28, 2006.

Compiler's note: In separate opinions, the Michigan Supreme Court held that Section 45(8), (9), (10), and (12) and the second sentence of Section 46(1) ("An agency shall not file a rule ... until at least 10 days after the date of the certificate of approval by the committee or after the legislature adopts a concurrent resolution approving the rule.") of the Administrative Procedures Act of 1969, in providing for the Legislature's reservation of authority to approve or disapprove rules proposed by executive branch agencies, did not comply with the enactment and presentment requirements of Const 1963, Art 4, and violated the separation of powers provision of Const 1963, Art 3, and, therefore, were unconstitutional. These specified portions were declared to be severable with the remaining portions remaining effective. Blank v Department of Corrections, 462 Mich 103 (2000).

Popular name: Department of Corrections Act

Administrative rules: R 791.1101 et seq. of the Michigan Administrative Code.

791.207 Report to governor and legislature; time; order by board of auditors; printing and distribution.

Sec. 7. On or before the 15th day of January of each year, the commission shall make to the governor and legislature a report of the department for the preceding fiscal year. Such report, if so ordered by the board of state auditors, shall be printed and distributed in such manner and to such persons, organizations, institutions and officials as said board may direct.

History: 1953, Act 232, Eff. Oct. 2, 1953.

Popular name: Department of Corrections Act

791.207a Records of department; accessibility by governing bodies of senate and house fiscal agency.

Sec. 7a. (1) Except as provided in subsection (2), the governing bodies of the senate and house fiscal agencies shall have access to all records of the department of corrections relating to individuals under the supervision of the department of corrections including, but not limited to, records contained in basic information reports and in the corrections management information system, the parole board information system, and any successor databases.

(2) Records shall not be accessible under subsection (1) if the department of corrections determines that any of the following applies:

(a) Access is restricted or prohibited by law.

(b) Access could jeopardize an ongoing investigation.

(c) Access could jeopardize the safety of a prisoner, employee, or other person.

(d) Access could jeopardize the safety, custody, or security of an institution or other facility.

(3) The records that are to be accessed, and the manner of access to those records, shall be determined under a written agreement entered into jointly between the governing board of the senate fiscal agency, the governing committee of the house fiscal agency, and the department of corrections. The agreement shall ensure the confidentiality of accessed records.

History: Add. 1998, Act 315, Eff. Dec. 15, 1998.

Popular name: Department of Corrections Act

791.208 Division of criminal statistics; powers and duties of director.

Sec. 8. Within the department there shall be established a general division of criminal statistics under the supervision and control of the director. He shall have the power and it shall be his duty to obtain from all chiefs of police, sheriffs, state police, prosecuting attorneys, courts, judges, parole and probation officers and all others concerned in the control, apprehension, trial, probation, parole and commitments of adult criminals and delinquents in this state, periodical reports as to the number and kinds of offenses known to law enforcement officers; the numbers, age, sex, race, nativity and offenses of criminals and delinquents arrested,

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

tried and otherwise disposed of; the sentences imposed and whether executed or suspended; the numbers placed on parole and probation and the reasons therefor and such other information as he may deem necessary. It shall be the duty of all such chiefs of police, sheriffs, state police, prosecuting attorneys, courts, judges, parole and probation officers and others concerned to make such reports at such times and in such manner, and to furnish such facilities for investigation as the director may reasonably require.

History: 1953, Act 232, Eff. Oct. 2, 1953.

Popular name: Department of Corrections Act

791.208a Definitions; recidivism rates; collection and maintenance of data; manner.

Sec. 8a. (1) As used in this act:

(a) "Recidivism" means any rearrest, reconviction, or reincarceration in prison or jail for a felony or misdemeanor offense or a probation or parole violation of an individual as measured first after 3 years and again after 5 years from the date of his or her release from incarceration, placement on probation, or conviction, whichever is later.

(b) "Technical parole violation" means a violation of the terms of a parolee's parole order that is not a violation of a law of this state, a political subdivision of this state, another state, or the United States or of tribal law.

(c) "Technical probation violation" means a violation of the terms of a probationer's probation order that is not a violation of a law of this state, a political subdivision of this state, another state, or the United States or of tribal law.

(2) Any data collected and maintained under this act regarding recidivism rates must be collected and maintained in a manner that separates the data regarding technical probation violations and technical parole violations from data on new felony and misdemeanor convictions.

History: Add. 2017, Act 4, Eff. June 29, 2017.

Popular name: Department of Corrections Act

791.209 Corrections commission; crime prevention and criminology research.

Sec. 9. The commission shall study the problem of crime prevention and foster research in criminology. It shall lend its aid in local crime prevention activities.

History: 1953, Act 232, Eff. Oct. 2, 1953.

Popular name: Department of Corrections Act

791.210 Corrections commission; bond of officers and employees, purpose.

Sec. 10. The commission may require a bond from any officer or employee appointed by or subject to the control of the commission, conditioned upon the faithful performance of his duties and the accounting for all money and property within his control.

History: 1953, Act 232, Eff. Oct. 2, 1953.

Popular name: Department of Corrections Act

791.211 Corrections commission; powers and duties.

Sec. 11. The commission shall exercise the powers and duties created by Act No. 89 of the Public Acts of 1935, being sections 798.101 to 798.103, inclusive, of the Compiled Laws of 1948, and by any interstate compact made and entered into pursuant to said act, in regard to the control and supervision of parolees and probationers, and in regard to cooperative effort and mutual assistance in the prevention of crime and in the enforcement of the penal laws and policies of the contracting states, and the commission may promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of the aforesaid act and compacts made pursuant thereto.

History: 1953, Act 232, Eff. Oct. 2, 1953.

Popular name: Department of Corrections Act

791.211a Interstate corrections compact; contracts; suitability of institutions for confinement; out-of-state transfer of prisoners; conditions.

Sec. 11a. (1) The director of corrections may enter into contracts on behalf of this state as the director considers appropriate to implement the participation of this state in the interstate corrections compact under article III of the interstate corrections compact. The contracts may authorize confinement of prisoners in, or transfer of prisoners from, correctional facilities under the jurisdiction of the department. A contract must not authorize the confinement of a prisoner who is in the custody of the department in an institution of a state other than a state that is a party to the interstate corrections compact. When transferring prisoners to

CAUTION: This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

institutions of other states under this section, the director shall endeavor to ensure that the transfers do not disproportionately affect groups of prisoners according to race, religion, color, creed, or national origin.

(2) The director of corrections shall first determine, on the basis of an inspection made by his or her direction, that an institution of another state is a suitable place for confinement of prisoners committed to his or her custody before entering into a contract permitting that confinement, and shall, at least annually, redetermine the suitability of that confinement. In determining the suitability of an institution of another state, the director shall determine that the institution maintains standards of care and discipline not incompatible with those of this state and that all inmates confined in that institution are treated equitably, regardless of race, religion, color, creed, or national origin.

(3) In considering transfers of prisoners out-of-state under the interstate corrections compact due to bed space needs the department shall do all of the following:

(a) Consider first prisoners who volunteer to transfer as long as they meet the eligibility criteria for such transfer.

(b) Provide law library materials including Michigan Compiled Laws, Michigan state and federal cases, and United States Sixth Circuit Court cases.

(c) Not transfer a prisoner who has a significant medical or mental health need.

(d) Use objective criteria in determining which prisoners to transfer.

(4) Unless a prisoner consents in writing, a prisoner transferred under the interstate corrections compact due to bed space needs must not be confined in another state for more than 1 year.

(5) A prisoner who is transferred to an institution of another state under this section must receive all of the following while in the receiving state:

(a) Mail services and access to the court.

(b) Visiting and telephone privileges.

(c) Occupational and vocational programs such as GED-ABE and appropriate vocational programs for his or her level of custody.

(d) Programs such as substance abuse programs, sex offender programs, and life skills development.

(e) Routine and emergency health care, dental care, and mental health services.

History: Add. 1994, Act 93, Imd. Eff. Apr. 13, 1994;—Am. 1998, Act 204, Imd. Eff. June 30, 1998;—Am. 2018, Act 295, Eff. Sept. 27, 2018.

Popular name: Department of Corrections Act

CAUTION! This document is from an archive and may contain outdated information.

791.212 Michigan corrections commission; seal; rules and orders; records and papers as evidence; commission as body corporate; leasing lands and granting easements; availability of certain writings to public.

Sec. 12. (1) The commission shall devise a seal, and the rules of the commission shall be published over the seal of the commission. All orders of the commission shall be issued over the seal of the commission. A copy of the records and papers in the office of the department, certified by an authorized agent of the commission and authenticated by the seal of the commission, shall be evidence in all cases with the same effect as the originals. A description of the seal, with an impression of the seal, shall be filed in the office of the secretary of state. The commission shall be a body corporate, and may lease lands under its jurisdiction, grant easements over, through, under, or across those lands for a lawful purpose, and do any other act necessary to carry out this act.

(2) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1974, Act 357, Imd. Eff. Dec. 21, 1974;—Am. 1978, Act 413, Imd. Eff. Sept. 28, 1978.

Popular name: Department of Corrections Act

791.213 Corrections commission; gifts, donations, bonds, real or personal property; purpose.

Sec. 13. The commission may receive on behalf of the state of Michigan any grant, devise, bequest, donation, gift or assignment of money, bonds or choses in action, or of any property, real or personal, and accept the same, so that the right and title to the same shall pass to the state of Michigan; and all such bonds, notes or choses in action, or the proceeds thereof when collected, and all other property or thing of value so received by the commission shall be used for the purposes set forth in the grant, devise, bequest, donation, gift or assignment: Provided, That such purposes shall be within the powers conferred on said commission. Whenever it shall be necessary to protect or assert the right or title of the commission to any property so

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

received or derived as aforesaid, or to collect or reduce into possession any bond, note, bill or chose in action, the attorney general is directed to take the necessary and proper proceedings and to bring suit in the name of the commission on behalf of the state of Michigan in any court of competent jurisdiction, state or federal, and to prosecute all such suits.

History: 1953, Act 232, Eff. Oct. 2, 1953.

Popular name: Department of Corrections Act

791.214 Corrections commission; estimation of needs and cost, submission to department of administration.

Sec. 14. The commission shall prepare for submission to the department of administration the estimated needs and costs to operate the department, and the several penal institutions under the jurisdiction of the department, in accordance with the requirements of the laws of this state.

History: 1953, Act 232, Eff. Oct. 2, 1953.

Popular name: Department of Corrections Act

791.214a Family reunification policy; family advisory board; creation; membership, duties.

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

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

(b) The legislative corrections ombudsman.

(c) Not fewer than 4 or more than 6 individuals who are family members of individuals currently incarcerated in Michigan.

(d) Not fewer than 1 or more than 3 individuals who are family members of individuals who were formerly incarcerated in Michigan.

(e) Not fewer than 1 individual who has a parent formerly or currently incarcerated in Michigan.

(f) Not fewer than 1 or more than 2 individuals who were formerly incarcerated in Michigan.

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

(h) One individual who is an advocate for or mentor to individuals incarcerated in Michigan.

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

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

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

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

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

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

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

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

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

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

(7) The department shall provide information about the family advisory board on its website and in the waiting rooms of correctional facilities, including the board's contact information for obtaining information and assistance with family-related issues.

History: Add. 2020, Act 309, Eff. Mar. 24, 2021.

CAUTION! This document is NOT an official archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Popular name: Department of Corrections Act

791.215 "Correctional facility" defined.

Sec. 15. As used in this act, "correctional facility" means a facility or institution which is maintained and operated by the department.

History: Add. 1980, Act 303, Imd. Eff. Nov. 26, 1980.

Popular name: Department of Corrections Act

791.216 Establishment of correctional facility; determination of need; comprehensive plan; notice of proposal; local advisory board; public hearing required; procedure; public notice of hearings; minutes of hearing; finding and notice of final site selection; option to lease, purchase, or use property.

Sec. 16. (1) The department shall develop a comprehensive plan for determining the need for establishing various types of correctional facilities, for selecting the location of a correctional facility, and for determining the size of the correctional facility. The comprehensive plan shall not be implemented until the legislature, by concurrent resolution adopted by a majority of those elected and serving in each house by a record roll call vote, approves the comprehensive plan.

(2) The department shall determine the need for a correctional facility based upon the comprehensive plan developed pursuant to subsection (1).

(3) The department shall publish a notice that it proposes to establish a correctional facility in a particular city, village, or township. The notice shall appear in a newspaper of general circulation in the area. In addition, the department shall notify the following officials:

(a) The state senator and the state representative representing the district in which the correctional facility is to be located.

(b) The president of each state supported college or university whose campus is located within 1 mile of the proposed correctional facility.

(c) The chief elected official of the city, village, or township in which the correctional facility is to be located.

(d) Each member of the governing body of the city, village, or township in which the correctional facility is to be located.

(e) Each member of the county board of commissioners in which the correctional facility is to be located.

(f) The president of the local school board of the local school district in which the correctional facility is to be located.

(g) The president of the intermediate school board of the intermediate school district in which the correctional facility is to be located.

(4) With the notice, the department shall request the chairperson of the county board of commissioners of the county in which the correctional facility is to be located and the person notified pursuant to subsection (3)(c) to create a local advisory board to assist in the identification of potential sites for the correctional facility, to act as a liaison between the department and the local community, and to ensure that the comprehensive plan is being followed by the department. The officials requested to create a local advisory board pursuant to this subsection shall serve as co-chairpersons of that local advisory board.

(5) After the requirements of subsections (1), (2), (3), and (4) are completed and the department has selected a potential site, the department shall hold a public hearing in the city, village, or township in which the potential site is located. The department shall participate in the hearing and shall make a reasonable effort to respond in writing to concerns and questions raised on the record at the hearing. The hearing shall not be held until the local advisory board created by subsection (4) has organized, or sooner than 30 days after the notice is sent pursuant to subsection (3), whichever occurs first.

(6) Hearings the department shall conduct under subsection (5) shall be open to the public and shall be held in a place available to the general public. Any person shall be permitted to attend a hearing except as otherwise provided in this section. A person shall not be required as a condition to attendance at a hearing to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attendance. A person shall be permitted to address the hearing under written procedures established by the department. A person shall not be excluded from a hearing except for a breach of the peace actually committed at the meeting.

(7) The following provisions shall apply with respect to public notice of hearings required under this section:

(a) A public notice shall always contain the name of the department, its telephone number, and its address.

(b) A public notice shall always be posted at the department's principal office and other locations

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

considered appropriate by the department.

(c) The required public notice for a hearing shall be posted in the office of the county clerk of the county in which the facility is to be located and shall be published in a newspaper of general circulation in the county in which the facility is to be located.

(d) A public notice stating the date, time, and place of the hearing shall be posted at least 10 days before the hearing.

(8) Minutes of each hearing required under this section shall be kept showing the date, time, place, members of the local advisory board present, members of the local advisory board absent, and a summary of the discussions at the hearing. The minutes shall be public records open to public inspection and shall be available at the address designated on posted public notices pursuant to subsection (7). Copies of the minutes shall be available from the department to the public at the reasonable estimated cost for printing and copying.

(9) On the basis of the information developed by the department during the course of the site selection process, and after community concerns have been responded to by the department pursuant to subsection (5), the commission shall make a final site determination for the correctional facility. The commission shall make a finding that the site determination was made in compliance with this section. This finding and notice of final site selection shall be transmitted in writing by the commission to the local advisory board, the officials described in subsection (3), and the chairpersons of the senate and house appropriations committees.

(10) An option to lease, purchase, or use property may be obtained but shall not be exercised by the state for a correctional facility until the commission has made a final site determination and has transmitted a notice of final site selection as required in subsection (9).

History: Add. 1980, Act 303, Imd. Eff. Nov. 26, 1980.

Popular name: Department of Corrections Act

791.217 Action for noncompliance with site selection process.

Sec. 17. (1) A person who resides in the city, village, or township in which the department has determined a need for a correctional facility may bring an action in a court of proper jurisdiction against the department if the department is not abiding by the site selection process provided in section 16.

(2) An action brought under this section shall not be maintained if it is filed more than 45 days after the commission sends notification of the final site selected to the officials as required in section 16(9).

History: Add. 1980, Act 303, Imd. Eff. Nov. 26, 1980.

Popular name: Department of Corrections Act

791.218 Relations with city, village, or township in which facility located; duties of advisory committee or advisory board.

Sec. 18. After a correctional facility is established, the department shall maintain relations with the city, village, or township in which the facility is located. The department shall request the officials notified under section 16(3)(b) to (g) to appoint an advisory committee or continue the advisory board established pursuant to section 16(4) to meet with the department and correctional facility representatives to assist in the identification of community concerns, to assist in the identification of problems, and to recommend methods for resolving those concerns and problems.

History: Add. 1980, Act 303, Imd. Eff. Nov. 26, 1980.

Popular name: Department of Corrections Act

791.219 Applicability of MCL 791.215 to 791.219 to correctional facilities.

Sec. 19. This section and sections 15 to 18 shall apply to correctional facilities established or proposed after the effective date of the concurrent resolution approving the comprehensive plan and to correctional facilities which are proposed before the effective date of the concurrent resolution approving the comprehensive plan but for which sites have not been selected by the commission as of that date.

History: Add. 1980, Act 303, Imd. Eff. Nov. 26, 1980.

Popular name: Department of Corrections Act

791.220-791.220c Repealed. 1995, Act 28, Imd. Eff. May 10, 1995.

Compiler's note: The repealed sections pertained to definitions, corrections regions, selection and recommendation of sites, placement procedures, and rules.

Popular name: Department of Corrections Act

791.220d Repealed. 1987, Act 176, Imd. Eff. Nov. 19, 1987.

Compiler's note: The repealed section pertained to demolition of Michigan reformatory in Ionia.

CAUTION! This document is from the archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Popular name: Department of Corrections Act

791.220e Scott correctional facility; western Wayne correctional facility; capacity limits; increase.

Sec. 20e. (1) Except as provided in subsection (2), not more than 880 prisoners shall be housed at the Scott correctional facility and not more than 925 prisoners shall be housed at the western Wayne correctional facility.

(2) If a new housing unit is constructed within the security perimeter of either facility listed in subsection (1), the capacity limits listed in subsection (1) for that facility are increased by the designated capacity of the new housing unit.

History: Add. 1985, Act 62, Imd. Eff. June 14, 1985;—Am. 1991, Act 96, Imd. Eff. Aug. 1, 1991;—Am. 1995, Act 20, Imd. Eff. Apr. 12, 1995;—Am. 2002, Act 670, Eff. Mar. 1, 2003.

Popular name: Department of Corrections Act

791.220f Construction of correctional facility; requirements; definition.

Sec. 20f. (1) A correctional facility constructed after the effective date of this section shall be constructed in compliance with at least 1 of the following requirements:

(a) A distance of not less than 300 feet exists between each adjacent residential dwelling and any part of the correctional facility or grounds that is within the security perimeter.

(b) A buffer zone is constructed between the correctional facility and all adjacent residential dwellings. The buffer zone shall be designed to block sight and to block or reduce sound, and may consist of an earth berm or trees or other plants, or materials that would have a substantially similar effect. A fence does not meet the requirements of this subdivision.

(2) As used in this section, "correctional facility" means any facility that houses prisoners under the jurisdiction of the department, but does not include a halfway house, community corrections center, or community residential home.

History: Add. 1989, Act 107, Imd. Eff. June 23, 1989.

Popular name: Department of Corrections Act

791.220g Youth correctional facility.

Sec. 20g. (1) The department may establish a youth correctional facility which shall house only prisoners committed to the jurisdiction of the department who are 19 years of age or less. If the department establishes or contracts with a private vendor for the operation of a youth correctional facility, following intake processing in a department operated facility, the department shall house all male prisoners who are 16 years of age or less at the youth correctional facility unless the department determines that the prisoner should be housed at a different facility for reasons of security, safety, or because of the prisoner's specialized physical or mental health care needs.

(2) Except as provided in subsection (3), a prisoner who is 16 years of age or less and housed at a youth correctional facility shall only be placed in a general population housing unit with prisoners who are 16 years of age or less.

(3) A prisoner who becomes 17 years of age while being housed at a youth correctional facility and who has a satisfactory prison record may remain in a general population housing unit for no more than 1 year with prisoners who are 16 years of age or less.

(4) Except as provided in subsection (3), a prisoner who is 16 years of age or less and housed at a youth correctional facility shall not be allowed to be in the proximity of a prisoner who is 17 years of age or more without the presence and direct supervision of custody personnel in the immediate vicinity.

(5) The department may establish and operate the youth correctional facility or may contract on behalf of the state with a private vendor for the construction or operation, or both, of the youth correctional facility. If the department contracts with a private vendor to construct, rehabilitate, develop, renovate, or operate any existing or anticipated facility pursuant to this section, the department shall require a written certification from the private vendor regarding all of the following:

(a) If practicable to efficiently and effectively complete the project, the private vendor shall follow a competitive bid process for the construction, rehabilitation, development, or renovation of the facility, and this process shall be open to all Michigan residents and firms. The private vendor shall not discriminate against any contractor on the basis of its affiliation or nonaffiliation with any collective bargaining organization.

(b) The private vendor shall make a good faith effort to employ, if qualified, Michigan residents at the facility.

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(c) The private vendor shall make a good faith effort to employ or contract with Michigan residents and firms to construct, rehabilitate, develop, or renovate the facility.

(6) If the department contracts with a private vendor for the operation of the youth correctional facility, the department shall require by contract that the personnel employed by the private vendor in the operation of the facility be certified as correctional officers to the same extent as would be required if those personnel were employed in a correctional facility operated by the department. The department also shall require by contract that the private vendor meet requirements specified by the department regarding security, protection of the public, inspections by the department, programming, liability and insurance, conditions of confinement, educational services required under subsection (11), and any other issues the department considers necessary for the operation of the youth correctional facility. The department shall also require that the contract include provisions to protect the public's interest if the private vendor defaults on the contract. Before finalizing a contract with a private vendor for the construction or operation of the youth correctional facility, the department shall submit the proposed contract to the standing committees of the senate and the house of representatives having jurisdiction of corrections issues, the corrections subcommittees of the standing committees on appropriations of the senate and the house of representatives, and, with regard to proposed construction contracts, the joint committee on capital outlay. A contract between the department and a private vendor for the construction or operation of the youth correctional facility shall be contingent upon appropriation of the required funding. If the department contracts with a private vendor under this section, the selection of that private vendor shall be by open, competitive bid.

(7) The department shall not site a youth correctional facility under this section in a city, village, or township unless the local legislative body of that city, village, or township adopts a resolution approving the location.

(8) A private vendor operating a youth correctional facility under a contract under this section shall not do any of the following, unless directed to do so by the department policy:

(a) Calculate inmate release and parole eligibility dates.

(b) Award good time or disciplinary credits, or impose disciplinary time.

(c) Approve inmates for extensions of limits of confinement.

(9) The youth correctional facility shall be open to visits during all business hours, and during nonbusiness hours unless an emergency prevents it, by any elected state senator or state representative.

(10) Once each year, the department shall report on the operation of the facility. Copies of the report shall be submitted to the chairpersons of the house and senate committees responsible for legislation on corrections or judicial issues, and to the clerk of the house of representatives and the secretary of the senate.

(11) Regardless of whether the department itself operates the youth correctional facility or contracts with a private vendor to operate the youth correctional facility, all of the following educational services shall be provided for juvenile prisoners housed at the facility who have not earned a high school diploma or received a general education certificate (GED):

(a) The department or private vendor shall require that a prisoner whose academic achievement level is not sufficient to allow the prisoner to participate effectively in a program leading to the attainment of a GED certificate participate in classes that will prepare him or her to participate effectively in the GED program, and shall provide those classes in the facility.

(b) The department or private vendor shall require that a prisoner who successfully completes classes described in subdivision (a), or whose academic achievement level is otherwise sufficient, participate in classes leading to the attainment of a GED certificate, and shall provide those classes.

(12) Neither the department nor the private vendor shall seek to have the youth correctional facility authorized as a public school academy under the revised school code, 1976 PA 451, MCL 380.1 to 380.1852.

(13) A private vendor that operates the youth correctional facility under a contract with the department shall provide written notice of its intention to discontinue its operation of the facility. This subsection does not authorize or limit liability for a breach or default of contract. If the reason for the discontinuance is that the private vendor intends not to renew the contract, the notice shall be delivered to the director of the department at least 1 year before the contract expiration date. If the discontinuance is for any other reason, the notice shall be delivered to the director of the department at least 6 months before the date on which the private vendor will discontinue its operation of the facility. This subsection does not authorize or limit liability for a breach or default of contract.

History: Add. 1996, Act 164, Eff. Mar. 31, 1997;—Am. 1998, Act 512, Imd. Eff. Jan. 8, 1999;—Am. 2000, Act 211, Imd. Eff. June 27, 2000.

Popular name: Department of Corrections Act

791.220h Order of restitution; deductions and payments.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 20h. (1) If a prisoner is ordered to pay restitution to the victim of a crime and the department receives a copy of the restitution order from the court, the department shall deduct 50% of the funds received by the prisoner in a month over $50.00 for payment of restitution. The department shall promptly forward the restitution amount to the crime victim as provided in the order of restitution when the amount exceeds $100.00, or the entire amount if the prisoner is paroled, transferred to community programs, or is discharged on the maximum sentence. The department shall notify the prisoner in writing of all deductions and payments made under this section. The requirements of this subsection remain in effect until all of the restitution has been paid.

(2) Any funds owed by the Michigan department of corrections or to be paid on behalf of one or more of its employees to satisfy a judgment or settlement to a person for a claim that arose while the person was incarcerated, shall be paid to satisfy any order(s) of restitution imposed on the claimant that the department has a record of. The payment shall be made as described in subsection (1). The obligation to pay the funds, described in this section, shall not be compromised. As used in this section, "fund" or "funds" means that portion of a settlement or judgment that remains to be paid to a claimant after statutory and contractual court costs, attorney fees, and expenses of litigation, subject to the court's approval, have been deducted.

(3) The department shall not enter into any agreement with a prisoner that modifies the requirements of subsection (1). Any agreement in violation of this subsection is void.

History: Add. 1996, Act 559, Eff. June 1, 1997.

Popular name: Department of Corrections Act

791.220i Correctional facility described in MCL 791.220g; use; interlocal agreement; contract for housing, custody, and care of detainees or inmates from other agencies; requirements; performance of duties by personnel; oversight; civil liability; definitions.

Sec. 20i. (1) If the correctional facility described in section 20g is not utilized by the department for housing inmates or detainees under the terms of section 20g, the private contractor that operates that correctional facility may utilize the facility for housing, custody, and care of detainees or inmates from any of the following agencies, either by directly contracting with those local, state, or federal agencies or by having 1 or more local, state, or federal agencies enter into an interlocal agreement with the township or county in which the facility is located, or the county sheriff for the county in which the facility is located, who in turn may contract with the private contractor for services to be provided under the terms of the interlocal agreement, subject to the requirements of this section:

(a) Other local, state, or federal agencies.

(b) The department if the detainees or inmates are older than 19 years of age and under the jurisdiction of the department.

(2) If all contractual factors regarding potential inmates or detainees are equal, the private contractor shall give preference to the admission of inmates or detainees sent from agencies within this state, including the department.

(3) Any contract under this section for the housing, custody, and care of detainees or inmates from other local, state, or federal agencies shall require all of the following:

(a) The private contractor that operates the facility shall do all of the following:

(*i*) Obtain accreditation of the facility by the American Correctional Association within 24 months after the private contractor commences operations at the facility and maintain that accreditation throughout the term of any contract for the use of the facility.

(*ii*) Operate the facility in compliance with the applicable standards of the American Correctional Association.

(b) The personnel employed by the private contractor in the operation of the facility shall meet the employment and training requirements set forth in the applicable standards of the American Correctional Association, and also shall meet any higher training and employment standards that may be mandated under a contract between the private contractor and a local, state, or federal agency that sends inmates or detainees to the facility.

(c) Any serious incident that occurs at the facility shall be reported immediately to the sheriff of the county and the state police.

(4) An inmate or detainee housed at the facility shall not participate in work release, a work camp, or another similar program or activity occurring outside the secure perimeter of the facility without the authorization of the initiating jurisdiction.

(5) The facility shall allow the presence of on-site monitors from any local, state, or federal agency that sends inmates or detainees to the facility, for the purpose of monitoring the conditions of confinement of those inmates or detainees. Whenever the private contractor submits a written report to a local, state, or

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

federal agency that sends inmates or detainees to the facility, the private contractor shall send copies of the written report to the township supervisor, the board of county commissioners, the county sheriff, and the department.

(6) Personnel employed at the facility by the private contractor who have met the employment and training requirements set forth in the applicable standards of the American Correctional Association have full authority to perform their duties and responsibilities under law, including, but not limited to, exercising the use of force in the same manner and to the same extent as would be authorized if those personnel were employed in a correctional facility operated by the department.

(7) A contract with a local, state, or federal agency that sends inmates or detainees to the facility shall not require, authorize, or imply a delegation of the authority or responsibility to the private contractor to do any of the following:

(a) Develop or implement procedures for calculating inmate release and parole eligibility dates or recommending the granting or denying of parole, although the private contractor may submit written reports that have been prepared in the ordinary course of business.

(b) Develop or implement procedures for calculating and awarding earned credits, including good time credits, disciplinary credits, or similar credits affecting the length of an inmate's incarceration, approving the type of work inmates may perform and the wage or earned credits, if any, that may be awarded to inmates engaging in that work, and granting, denying, or revoking earned credits.

(8) Inmates and detainees shall be transferred to and from the facility in a secure manner. Any inmate or detainee housed at the facility who was sent from another state, a local agency outside this state, or the federal government shall be returned to the agency that sent the inmate or detainee upon completion of the inmate's or detainee's term of incarceration in the facility and shall not be released from custody within this state.

(9) The department of corrections is not responsible for oversight of the facility. This state, or any department or agency of this state, is not civilly liable for damages arising out of the operation of the facility.

(10) As used in this section:

(a) "Facility" means the former Michigan youth correctional facility described in subsection (1).

(b) "Serious incident" means a disturbance at the facility involving 5 or more inmates or detainees, a death of an inmate or detainee, a felony or attempted felony committed within the facility, or an escape or attempted escape from the facility.

History: Add. 2006, Act 351, Imd. Eff. Sept. 18, 2006;—Am. 2012, Act 599, Eff. Mar. 28, 2013;—Am. 2015, Act 49, Imd. Eff. June 9, 2015.

Popular name: Department of Corrections Act

791.220j Contract resulting in annual savings; employment consideration.

Sec. 20j. (1) This act does not prohibit the department from contracting with an operator of a privately owned correctional facility to house and manage inmates under the jurisdiction of the department if the contract will result in an annual cost savings of at least 10% to the state. The department shall annually document and report the savings to the legislature.

(2) If the department contracts with a privately owned correctional facility, the contractor shall interview and consider for employment employees or former employees of the department who lose or reasonably expect to lose their position of employment with the department as a result of prison closures. The contractor shall also give consideration to the hiring of unemployed national guard and reserve officers and military personnel who are returning to this state following active deployment. This section does not create a property interest in employment.

History: Add. 2012, Act 599, Eff. Mar. 28, 2013.

Popular name: Department of Corrections Act

CHAPTER II
BUREAU OF PROBATION.

791.221 Bureau of probation; creation; supervision.

Sec. 21. There is hereby established within the department a bureau of probation. This bureau shall be under the direction and supervision of the assistant director in charge of probation.

History: 1953, Act 232, Eff. Oct. 2, 1953.

Popular name: Department of Corrections Act

791.222 Probation officers; appointment, supervision, and removal; grounds for removal of probation employee; receipt of compensation, gift, or gratuity as misdemeanor; powers

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

and duties of commission.

Sec. 22. (1) The commission shall appoint, supervise, and remove probation officers for the circuit court and recorder's court of this state, in the manner provided by the laws of this state.

(2) The commission may remove a probation employee for incompetency, misconduct, or failure to carry out the orders of the department, or for neglect of duty.

(3) A probation employee who receives compensation from public funds under this act, and receives any compensation, gift, or gratuity from a person under probation or from a person, partnership, association, or corporation for doing or refraining from doing an official act connected with his or her work as a probation employee, or connected with a proceeding pending or about to be instituted in the circuit court or recorder's court is guilty of a misdemeanor.

(4) The commission shall be vested with the powers and duties prescribed by the law with respect to probation recovery camps.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1979, Act 89, Eff. Apr. 1, 1980.

Compiler's note: Sections 2, 3, and 4 of Act 210 of 1979 provide:

"P.A. 1979, No. 89, section 4, amended; effective date.

"Section 2. The enacting section of Act No. 89 of the Public Acts of 1979, is amended to read as follows:

"Section 4. This amendatory act shall take effect April 1, 1980.

"Effective date of P.A. 1979, Nos. 81 and 89, in certain counties; funds for probation services.

"Section 3. The provisions of Act Nos. 81 and 89 of the Public Acts of 1979 shall not take effect in a county with a population of 1.5 million or more prior to a majority vote of the elected members of the county's board of commissioners to place the question of the creation of a charter commission under the terms of enacted Senate Bill No. 652 before the county electorate. Subsequent to the above action by the board of commissioners, funds appropriated for probation services for a county with a population of 1.5 million or more shall become immediately effective, and shall be retroactive to the extent of the funds provided.

"Implementation of P.A. 1979, Nos. 81 and 89; effect of refusal to provide probation support costs.

"Section 4. Implementation of Act Nos. 81 and 89 of the Public Acts of 1979 shall not be effective in counties which refuse to provide probation support costs as required in those acts."

Popular name: Department of Corrections Act

791.223 Assistant director as administrative head; powers and duties; forms for reports by probation officers.

Sec. 23. The assistant director in charge of probation shall be the administrative head of the bureau of probation subject to the authority and supervision of the director of the department of corrections, and the commission. The assistant director shall exercise general supervision over the administration of probation in the circuit court and recorder's court of the state. The assistant director, with the approval of the director, shall appoint personnel other than probation officers necessary for the conduct of the bureau. The assistant director shall endeavor to secure the effective application of the probation system in all courts of the state and the enforcement of probation laws. The assistant director shall supervise the work of probation personnel and shall have access to all probation offices and records. The assistant director shall prescribe the form of records to be kept and reports to be made by probation personnel and shall promulgate general rules which shall regulate the procedure for the administration of probation, including investigation, supervision, case work, record keeping, and accounting. The assistant director shall collect and maintain a complete file of presentence investigations made by probation officers throughout the state. The assistant director shall collect, compile, and publish statistical and other information relating to probation work in all courts and other information of value in probation service. All probation officers shall submit the required reports to the department of corrections on forms to be prescribed and furnished by the department of corrections.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1979, Act 89, Eff. Apr. 1, 1980.

Compiler's note: Sections 2, 3, and 4 of Act 210 of 1979 provide:

"P.A. 1979, No. 89, section 4, amended; effective date.

"Section 2. The enacting section of Act No. 89 of the Public Acts of 1979, is amended to read as follows:

"Section 4. This amendatory act shall take effect April 1, 1980.

"Effective date of P.A. 1979, Nos. 81 and 89, in certain counties; funds for probation services.

"Section 3. The provisions of Act Nos. 81 and 89 of the Public Acts of 1979 shall not take effect in a county with a population of 1.5 million or more prior to a majority vote of the elected members of the county's board of commissioners to place the question of the creation of a charter commission under the terms of enacted Senate Bill No. 652 before the county electorate. Subsequent to the above action by the board of commissioners, funds appropriated for probation services for a county with a population of 1.5 million or more shall become immediately effective, and shall be retroactive to the extent of the funds provided.

"Implementation of P.A. 1979, Nos. 81 and 89; effect of refusal to provide probation support costs.

"Section 4. Implementation of Act Nos. 81 and 89 of the Public Acts of 1979 shall not be effective in counties which refuse to provide probation support costs as required in those acts."

Popular name: Department of Corrections Act

Administrative rules: R 791.1101 et seq. of the Michigan Administrative Code.

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

791.223a Probation personnel as members of state classified civil service; compensation of county probation employees; plan; rents, contractual services, supplies, materials, and equipment.

Sec. 23a. (1) Effective April 1, 1980, all probation personnel in the circuit court of this state and recorder's court of the city of Detroit shall be considered state employees for purposes of supervision and direction. County probation personnel may transfer their employment from a county probation department to state classified civil service pursuant to procedures established by the civil service commission. County probation personnel who wish to remain county employees may elect to do so pursuant to this section. Not later than 6 years after the effective date of this section, all probation employees shall be members of the state classified civil service.

(2) Effective April 1, 1980, all new employees hired as probation personnel shall be members of the state classified civil service.

(3) If a county probation employee remains an employee of the county, the county shall receive an amount from the state equal to the base state civil service salary or county salary, whichever is the lesser. Funds provided by the state pursuant to this section shall be used exclusively for the purpose of compensating county probation employees. The county shall provide for all salary in excess of the state base salary, travel, fringe benefits, and retirement for personnel choosing to remain as county employees.

(4) The civil service commission, in consultation with the department of corrections and affected counties, shall develop a plan effective April 1, 1980, which shall include provisions relating to the transfer of seniority rights, longevity, and accumulated annual and sick leave of county probation office personnel electing to join the state classified civil service. The plan shall specify procedures for the supervision, direction, and disciplinary removal of county probation personnel. If applicable, Act No. 88 of the Public Acts of 1961, as amended, being sections 38.1101 to 38.1105 of the Michigan Compiled Laws, shall apply.

(5) All rents, contractual services, supplies, materials, and equipment which are a county responsibility on the effective date of this section, shall continue to be a county responsibility.

History: Add. 1979, Act 89, Eff. Apr. 1, 1980;—Am. 1979, Act 210, Imd. Eff. Jan. 10, 1980.

Compiler's note: Sections 2, 3, and 4 of Act 210 of 1979 provide:

"P.A. 1979, No. 89, section 4, amended; effective date.

"Section 2. The enacting section of Act No. 89 of the Public Acts of 1979, is amended to read as follows:

"Section 4. This amendatory act shall take effect April 1, 1980.

"Effective date of P.A. 1979, Nos. 81 and 89, in certain counties; funds for probation services.

"Section 3. The provisions of Act Nos. 81 and 89 of the Public Acts of 1979 shall not take effect in a county with a population of 1.5 million or more prior to a majority vote of the elected members of the county's board of commissioners to place the question of the creation of a charter commission under the terms of enacted Senate Bill No. 652 before the county electorate. Subsequent to the above action by the board of commissioners, funds appropriated for probation services for a county with a population of 1.5 million or more shall become immediately effective, and shall be retroactive to the extent of the funds provided.

"Implementation of P.A. 1979, Nos. 81 and 89; effect of refusal to provide probation support costs.

"Section 4. Implementation of Act Nos. 81 and 89 of the Public Acts of 1979 shall not be effective in counties which refuse to provide probation support costs as required in those acts."

Popular name: Department of Corrections Act

791.224 Repealed. 1979, Act 89, Eff. Apr. 1, 1980.

Compiler's note: The repealed section pertained to division of state into geographical districts and to duties of probation officers.

Popular name: Department of Corrections Act

791.225 Probation service; compensation of probation officers; service grants.

Sec. 25. Where the courts of more than 1 county are served by the same probation officer or officers, the compensation of such officer or officers and the expenses of administering probation service within such counties shall be met jointly by the boards of supervisors therein: Provided, That when it shall appear to the commission that any county is unable to adequately maintain its probation program according to the standards set by the state bureau of probation, then service grants to such an extent and under such conditions as the commission may determine, may be made available to said county: Provided, That uniform rules to be followed in making available such service grants first shall be promulgated by the commission.

History: 1953, Act 232, Eff. Oct. 2, 1953.

Popular name: Department of Corrections Act

791.225a Supervision fees; collection; records; payment; waiver; allocation of money collected for other obligations; administrative costs; enhanced services; unpaid amounts; "electronic monitoring device" defined.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 25a. (1) The department shall collect supervision fees ordered under section 13 of chapter II or section 1 or 3c of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 762.13, 771.1, and 771.3c. The department shall maintain records of supervision fees ordered by the court, including records of payment by persons subject to supervision fees and any amounts of supervision fees past due and owing.

(2) A supervision fee is payable when the order of delayed sentence or order of probation is entered, unless the court allows a person who is subject to a supervision fee to pay the fee in monthly installments.

(3) The department shall waive any applicable supervision fee for a person who is transferred to another state under the interstate compact entered into pursuant to 1935 PA 89, MCL 798.101 to 798.103, or the interstate compact entered into pursuant to the interstate compact for adult offender supervision, 2002 PA 40, MCL 3.1011 to 3.1012, for the months during which he or she is in another state. Except as provided in subsection (4), the department shall collect a supervision fee of $30.00 per month for each month of supervision in this state for an offender transferred to this state under an interstate compact who is being supervised without an electronic monitoring device. If the offender is being supervised under this subsection with an electronic monitoring device, the department shall collect a supervision fee of $60.00 per month.

(4) The department shall waive any applicable supervision fee for a person who is transferred to another state under the interstate compact entered into pursuant to 1935 PA 89, MCL 798.101 to 798.103, or the interstate compact entered into pursuant to the interstate compact for adult offender supervision, 2002 PA 40, MCL 3.1011 to 3.1012, if the department determines that the offender is indigent.

(5) If a person who is subject to a supervision fee is also subject to any combination of fines, costs, restitution orders, assessments, or payments arising out of the same criminal proceeding, the allocation of money collected for those obligations must be as otherwise provided in the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69.

(6) Twenty percent of the money collected by the department under this section must be allocated for administrative costs incurred by the department in collecting supervision fees and for enhanced services, as described in this subsection. Enhanced services include, but are not limited to, the purchase of services for offenders such as counseling, employment training, employment placement, or education; public transportation expenses related to training, counseling, or employment; enhancement of staff performance through specialized training and equipment purchase; and purchase of items for offender employment. The department shall develop priorities for expending the money for enhanced services in consultation with circuit judges in this state. At the end of each fiscal year, the unexpended balance of the money allocated for administrative costs and enhanced services must be available for carryforward to be used for the purposes described in this subsection in subsequent fiscal years.

(7) If a person has not paid the full amount of a supervision fee upon being discharged from probation, or upon termination of the period of delayed sentence for a person subject to delayed sentence including a person under supervision on the effective date of the amendatory act that amended this subsection, the department shall waive any amount in excess of the aggregate sum of $30.00 per month for each month the offender was supervised without an electronic monitoring device and $60.00 per month for each month the offender was monitored with an electronic monitoring device. Any unpaid amounts not waived by the department must be reported to the department of treasury. The department of treasury shall attempt to collect the unpaid balances pursuant to section 30a of 1941 PA 122, MCL 205.30a. Money collected under this subsection must not be allocated for the purposes described in subsection (6).

(8) The department shall not collect any fees for offenders supervised under this section for electronic monitoring other than the fees required to be collected under subsection (3).

(9) As used in this section, "electronic monitoring device" includes any electronic device or instrument that is used to track the location of an individual, enforce a curfew, or detect the presence of alcohol in an individual's body.

History: Add. 1993, Act 184, Imd. Eff. Sept. 30, 1993;—Am. 2002, Act 502, Imd. Eff. July 16, 2002;—Am. 2019, Act 164, Eff. Mar. 19, 2020.

Popular name: Department of Corrections Act

791.226 Repealed. 1972, Act 179, Imd. Eff. June 16, 1972.

Compiler's note: The repealed section excepted certain probation departments from the provisions of this chapter.

Popular name: Department of Corrections Act

791.227 Repealed. 1979, Act 89, Eff. Apr. 1, 1980.

Compiler's note: The repealed section declared act inapplicable to juvenile probation.

Popular name: Department of Corrections Act

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

791.228 Information on juvenile probationers; assistance; free access to books, records, files, and documents.

Sec. 28. (1) The department of social services and the probate court of this state shall furnish to the department information, on request, concerning any individual having a previous record as a juvenile probationer who comes within the jurisdiction of the department.

(2) A department, board, commission, official, or employee of this state or a political subdivision of this state, shall give and furnish to the assistant director or to his or her agent, any assistance requested by the assistant director or his or her agent in the performance of their duties. Free access shall be given to any books, records, files, and documents in the custody of the department, board, commission, official, or employee, relating to matters within the scope of the powers and duties of the assistant director, except those expressly prohibited by law or court rule.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1979, Act 89, Eff. Apr. 1, 1980.

Compiler's note: Sections 2, 3, and 4 of Act 210 of 1979 provide:
"P.A. 1979, No. 89, section 4, amended; effective date.
"Section 2. The enacting section of Act No. 89 of the Public Acts of 1979, is amended to read as follows:
"Section 4. This amendatory act shall take effect April 1, 1980.
"Effective date of P.A. 1979, Nos. 81 and 89, in certain counties; funds for probation services.
"Section 3. The provisions of Act Nos. 81 and 89 of the Public Acts of 1979 shall not take effect in a county with a population of 1.5 million or more prior to a majority vote of the elected members of the county's board of commissioners to place the question of the creation of a charter commission under the terms of enacted Senate Bill No. 652 before the county electorate. Subsequent to the above action by the board of commissioners, funds appropriated for probation services for a county with a population of 1.5 million or more shall become immediately effective, and shall be retroactive to the extent of the funds provided.
"Implementation of P.A. 1979, Nos. 81 and 89; effect of refusal to provide probation support costs.
"Section 4. Implementation of Act Nos. 81 and 89 of the Public Acts of 1979 shall not be effective in counties which refuse to provide probation support costs as required in those acts."

Popular name: Department of Corrections Act

791.229 Privileged or confidential communications; access to records, reports, and case histories; confidential relationship inviolate.

Sec. 29. Except as otherwise provided by law, all records and reports of investigations made by a probation officer, and all case histories of probationers shall be privileged or confidential communications not open to public inspection. Judges and probation officers shall have access to the records, reports, and case histories. The probation officer, the assistant director of probation, or the assistant director's representative shall permit the attorney general, the auditor general, and law enforcement agencies to have access to the records, reports, and case histories and shall permit designated representatives of a private contractor that operates a facility or institution that houses prisoners under the jurisdiction of the department to have access to the records, reports, and case histories pertaining to prisoners assigned to that facility. The relation of confidence between the probation officer and probationer or defendant under investigation shall remain inviolate.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1979, Act 89, Eff. Apr. 1, 1980;—Am. 1998, Act 512, Imd. Eff. Jan. 8, 1999;—Am. 2010, Act 248, Imd. Eff. Dec. 14, 2010;—Am. 2012, Act 599, Eff. Mar. 28, 2013.

Compiler's note: Sections 2, 3, and 4 of Act 210 of 1979 provide:
"P.A. 1979, No. 89, section 4, amended; effective date.
"Section 2. The enacting section of Act No. 89 of the Public Acts of 1979, is amended to read as follows:
"Section 4. This amendatory act shall take effect April 1, 1980.
"Effective date of P.A. 1979, Nos. 81 and 89, in certain counties; funds for probation services.
"Section 3. The provisions of Act Nos. 81 and 89 of the Public Acts of 1979 shall not take effect in a county with a population of 1.5 million or more prior to a majority vote of the elected members of the county's board of commissioners to place the question of the creation of a charter commission under the terms of enacted Senate Bill No. 652 before the county electorate. Subsequent to the above action by the board of commissioners, funds appropriated for probation services for a county with a population of 1.5 million or more shall become immediately effective, and shall be retroactive to the extent of the funds provided.
"Implementation of P.A. 1979, Nos. 81 and 89; effect of refusal to provide probation support costs.
"Section 4. Implementation of Act Nos. 81 and 89 of the Public Acts of 1979 shall not be effective in counties which refuse to provide probation support costs as required in those acts."

Popular name: Department of Corrections Act

791.230 Repealed. 1994, Act 131, Imd. Eff. May 19, 1994.

Compiler's note: The repealed section pertained to exemption from disclosure of certain records requested by prisoners.

Popular name: Department of Corrections Act

791.230a Exemptions from disclosure under freedom of information act.

Sec. 30a. The home addresses, telephone numbers, and personnel records of employees of the department,

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

employees of the center for forensic psychiatry, and employees of a psychiatric hospital that houses prisoners are exempt from disclosure under the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

History: Add. 1994, Act 433, Imd. Eff. Jan. 6, 1995.

Popular name: Department of Corrections Act

CHAPTER III

BUREAU OF PARDONS AND PAROLES; PAROLE BOARD.

791.231 Bureau of field services; establishment; direction and supervision by deputy director; appointment; duties; assistants.

Sec. 31. There is established within the department a bureau of field services, under the direction and supervision of a deputy director in charge of field services, who shall be appointed by the director and who shall be within the state civil service. The deputy director shall direct and supervise the work of the bureau of field services and shall formulate methods of investigation and supervision and develop various processes in the technique of supervision by the parole staff. The deputy director is responsible for all investigations of persons eligible for release from state penal institutions, and for the general supervision of persons released from penal institutions. The deputy director in charge of the bureau of field services is responsible for the collection and preservation of records and statistics with respect to paroled prisoners as may be required by the director and the chairperson of the parole board. The deputy director shall employ parole officers and assistants as may be necessary, subject to the approval of the director. The deputy director shall select secretarial and other assistants as may be necessary and may obtain permanent quarters for the staff as may be necessary.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1982, Act 314, Imd. Eff. Oct. 15, 1982.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the Bureau of Field Services and the deputy director in charge of field services to the Director of the Michigan Department of Corrections, see E.R.O. No. 1992-3, compiled at MCL 791.303 of the Michigan Compiled Laws.

Popular name: Department of Corrections Act

791.231a Parole board; establishment; appointment, terms, and removal of members; vacancy; salary and expenses; designation and responsibility of chairperson; powers and duties.

Sec. 31a. (1) Beginning October 1, 1992, there is established in the department, a parole board consisting of 10 members who shall be appointed by the director and who shall not be within the state civil service.

(2) Members of the parole board shall be appointed to terms of 4 years each, except that of the members first appointed, 4 shall serve for terms of 4 years each, 3 shall serve for terms of 3 years each, and 3 shall serve for terms of 2 year each. A member may be reappointed. The director may remove a member of the parole board for incompetency, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office. If a vacancy occurs on the parole board, the director shall make an appointment for the unexpired term in the same manner as an original appointment. At least 4 members of the parole board shall be persons who, at the time of their appointment, have never been employed by or appointed to a position in the department of corrections.

(3) Each member of the parole board shall receive an annual salary as established by the legislature and shall be entitled to necessary traveling expenses incurred in the performance of official duties subject to the standardized travel regulations of the state.

(4) The chairperson of the parole board shall be designated by the director. The chairperson of the parole board is responsible for the administration and operation of the parole board. The chairperson may conduct interviews and participate in the parole decision making process. The chairperson shall select secretaries and other assistants as the chairperson considers to be necessary.

(5) The parole board created in this section shall exist for purposes of appointment and training on October 1, 1992, and as of November 15, 1992, shall exercise and perform the powers and duties prescribed and conferred by this act.

History: Add. 1992, Act 181, Imd. Eff. Sept. 22, 1992.

Popular name: Department of Corrections Act

791.231b Parole denials; report.

Sec. 31b. (1) The department shall submit a quarterly report to the senate and house committees responsible for legislation concerning corrections issues detailing the number of prisoners who have reached

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

their earliest possible release on parole date under the requirements of this chapter but who have not been granted parole.

(2) The report required under this section must categorize the total number of parole denials by the number of prisoners who have been denied parole for each of the following reasons:

(a) The nature and circumstances of the offense for which the prisoner is incarcerated at the time of the parole consideration.

(b) The prisoner's institutional program performance, including whether or not the prisoner completed all required programming.

(c) The prisoner's institutional conduct, including the number of major misconduct charges for which the prisoner has been found guilty and security classification increases over the previous 5 years and the year immediately before parole consideration.

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

(e) Whether the prisoner was previously granted parole and had his or her parole revoked.

(f) Whether the prisoner was identified in the federal combined DNA index system (CODIS) and linked to an unsolved criminal violation.

(g) Other relevant factors under the parole guidelines.

History: Add. 2017, Act 7, Eff. June 29, 2017.

Popular name: Department of Corrections Act

791.232 Repealed. 1992, Act 181, Eff. Nov. 15, 1992.

Compiler's note: The repealed section pertained to establishment of parole board, appointment and qualifications of members and chairperson, and powers and duties of chairperson.

Popular name: Department of Corrections Act

791.233 Grant of parole; conditions; paroles-in-custody; rules.

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

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

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

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

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

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

(f) Except as provided in section 35(10), a prisoner whose minimum term of imprisonment is 2 years or more must not be released on parole unless he or she has either earned a high school diploma or a high school equivalency certificate. The director of the department may waive the restriction imposed by this subdivision as to any prisoner who is over the age of 65 or who was gainfully employed immediately before committing the crime for which he or she was incarcerated. The department may also waive the restriction imposed by this subdivision as to any prisoner who has a learning disability, who does not have the necessary proficiency in English, or who for some other reason that is not the fault of the prisoner is unable to successfully complete the requirements for a high school diploma or a high school equivalency certificate. If the prisoner does not

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

have the necessary proficiency in English, the department shall provide English language training for that prisoner necessary for the prisoner to begin working toward the completion of the requirements for a high school equivalency certificate. This subdivision applies to prisoners sentenced for crimes committed after December 15, 1998. In providing an educational program leading to a high school diploma or a high school equivalency certificate, the department shall give priority to prisoners sentenced for crimes committed on or before December 15, 1998.

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

(3) The parole board may promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that are not inconsistent with this act with respect to conditions imposed upon prisoners paroled under this act.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1978, Act 81, Eff. Sept. 1, 1978;—Am. 1978, Initiated Law, Eff. Dec. 12, 1978;—Am. 1982, Act 458, Imd. Eff. Dec. 30, 1982;—Am. 1994, Act 217, Eff. Dec. 15, 1998;—Am. 1998, Act 320, Eff. Dec. 15, 1998;—Am. 2017, Act 14, Eff. June 29, 2017;—Am. 2019, Act 14, Eff. Aug. 21, 2019.

Popular name: Department of Corrections Act

791.233a Repealed. 1982, Act 314, Imd. Eff. Oct. 15, 1982.

Compiler's note: The repealed section pertained to determining prisoner's fitness to be released on parole.

Popular name: Department of Corrections Act

791.233b Eligibility for parole; minimum term.

Sec. 33b. Except for a prisoner granted parole under section 35(10), a person convicted and sentenced for the commission of any of the following crimes other than a prisoner subject to disciplinary time is not eligible for parole until the person has served the minimum term imposed by the court less an allowance for disciplinary credits as provided in section 33(5) of 1893 PA 118, MCL 800.33, and is not eligible for special parole:

(a) Section 13 of the Michigan penal code, 1931 PA 328, MCL 750.13.

(b) Section 14 of the Michigan penal code, 1931 PA 328, MCL 750.14.

(c) Section 72, 73, or 75 of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.73, and 750.75.

(d) Section 82, 83, 84, 86, 87, 88, 89, or 90 of the Michigan penal code, 1931 PA 328, MCL 750.82, 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, and 750.90, or former section 80 of that act.

(e) Section 91 or 92 of the Michigan penal code, 1931 PA 328, MCL 750.91 and 750.92.

(f) Section 110, 112, or 116 of the Michigan penal code, 1931 PA 328, MCL 750.110, 750.112, and 750.116.

(g) Section 135 or 136b(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.135 and 750.136b, or former section 136a of that act.

(h) Section 158 of the Michigan penal code, 1931 PA 328, MCL 750.158.

(i) Section 160 of the Michigan penal code, 1931 PA 328, MCL 750.160.

(j) Former section 171 of the Michigan penal code, 1931 PA 328.

(k) Section 196 of the Michigan penal code, 1931 PA 328, MCL 750.196, or former section 194 of that act.

(*l*) Section 204, 207, 209, or 213 of the Michigan penal code, 1931 PA 328, MCL 750.204, 750.207, 750.209, and 750.213, or former section 205, 206 or 208 of that act.

(m) Section 224, 226, or 227 of the Michigan penal code, 1931 PA 328, MCL 750.224, 750.226, and 750.227.

(n) Section 316, 317, 321, 322, 323, 327, 328, or 329 of the Michigan penal code, 1931 PA 328, MCL 750.316, 750.317, 750.321, 750.322, 750.323, 750.327, 750.328, and 750.329, or former section 319 of that act.

(o) Former section 333 of the Michigan penal code, 1931 PA 328.

(p) Section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, or former section 341 of that act.

(q) Section 349, 349a, or 350 of the Michigan penal code, 1931 PA 328, MCL 750.349, 750.349a, and 750.350.

(r) Section 357 of the Michigan penal code, 1931 PA 328, MCL 750.357.

(s) Section 386 or 392 of the Michigan penal code, 1931 PA 328, MCL 750.386 and 750.392.

(t) Section 397 or 397a of the Michigan penal code, 1931 PA 328, MCL 750.397 and 750.397a.

(u) Section 436 of the Michigan penal code, 1931 PA 328, MCL 750.436.

(v) Section 511 of the Michigan penal code, 1931 PA 328, MCL 750.511, or former section 517 of that act.

CAUTION! This document is an archive and may contain errors. Use for information only.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(w) Section 520b, 520c, 520d, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, and 750.520g.

(x) Section 529, 529a, 530, or 531 of the Michigan penal code, 1931 PA 328, MCL 750.529, 750.529a, 750.530, and 750.531.

(y) Section 544 of the Michigan penal code, 1931 PA 328, MCL 750.544, or former section 545a of that act.

(z) Former section 2 of 1950 (Ex Sess) PA 38.

(aa) Former section 6 of 1952 PA 117.

(bb) Section 1, 2, or 3 of 1968 PA 302, MCL 752.541, 752.542, and 752.543.

(cc) Section 7401(2)(a) or (b) or 7402(2)(a) or (b) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7402.

History: Add. 1978, Initiated Law, Eff. Dec. 12, 1978;—Am. 1982, Act 458, Imd. Eff. Dec. 30, 1982;—Am. 1989, Act 252, Eff. Mar. 29, 1990;—Am. 1994, Act 199, Eff. Oct. 1, 1994;—Am. 1994, Act 217, Eff. Dec. 15, 1998;—Am. 2010, Act 94, Imd. Eff. June 22, 2010;—Am. 2019, Act 16, Eff. Aug. 21, 2019.

Constitutionality: A mandatory sentence of life without parole does not violate the prohibition against cruel and unusual punishments of the Eighth Amendment to the United States Constitution, because the Eighth Amendment contains no proportionality guarantee. Neither does the Eighth Amendment prohibit the imposition of mandatory sentences -- "severe, mandatory penalties may be cruel, but they are not unusual in the constitutional sense ... " -- nor does it require consideration of individualized, mitigating circumstances beyond those cases in which a capital sentence is imposed. Harmelin v Michigan, 501 US 957; 111 S Ct 2680; 115 L Ed2d 836 (1991).

Compiler's note: Section 2 of 1994 PA 217, which provides that "This amendatory act shall take effect on the date that sentencing guidelines are enacted into law after the sentencing commission submits its report to the secretary of the senate and the clerk of the house of representatives pursuant to sections 31 to 34 of chapter IX of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, as added by the amendatory act resulting from House Bill No. 4782 of the 87th Legislature." was repealed by 1998 PA 316, effective Dec. 15, 1998.

Popular name: Department of Corrections Act

791.233b[1] "Major controlled substance offense" defined.

Sec. 33b. As used in section 34, "major controlled substance offense" means any of the following:

(a) A violation of section 7401(2)(a)(*i*) or (*ii*) of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.7401 of the Michigan Compiled Laws.

(b) A violation of section 7403(2)(a)(*i*) or (*ii*) of Act No. 368 of the Public Acts of 1978, being section 333.7403 of the Michigan Compiled Laws.

(c) Conspiracy to commit an offense listed in subdivision (a) or (b).

History: Add. 1978, Act 81, Eff. Sept. 1, 1978;—Am. 1988, Act 143, Imd. Eff. June 3, 1988.

Compiler's note: Section 33b, as added by Act 81 of 1978, was compiled as MCL 791.233b[1] to distinguish it from another section 33b added by the initiated law submitted to and approved by the people at the general election held on November 7, 1978.

Popular name: Department of Corrections Act

791.233c "Prisoner subject to disciplinary time" defined.

Sec. 33c. As used in this act, "prisoner subject to disciplinary time" means that term as defined in section 34 of Act No. 118 of the Public Acts of 1893, being section 800.34 of the Michigan Compiled Laws.

History: Add. 1994, Act 217, Eff. Dec. 15, 1998.

Compiler's note: Section 2 of 1994 PA 217, which provides that "This amendatory act shall take effect on the date that sentencing guidelines are enacted into law after the sentencing commission submits its report to the secretary of the senate and the clerk of the house of representatives pursuant to sections 31 to 34 of chapter IX of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, as added by the amendatory act resulting from House Bill No. 4782 of the 87th Legislature." was repealed by 1998 PA 316, effective Dec. 15, 1998.

Popular name: Department of Corrections Act

791.233d Samples for DNA identification profiling.

Sec. 33d. (1) Each prisoner serving a sentence in a state correctional facility, and each probationer placed at the special alternative incarceration program under the special alternative incarceration act, 1988 PA 287, MCL 798.11 to 798.18, shall provide a sample for DNA identification profiling. If a valid sample has not already been collected in the manner prescribed under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176, and recorded on the prisoner's or probationer's criminal history record, the sample required under this subsection shall be obtained within the following time periods, as applicable:

(a) For a prisoner serving a sentence in a state correctional facility or a probationer in a special alternative incarceration program on June 1, 2011, the samples shall be obtained not later than January 1, 2012. However, if the prisoner or probationer is released on parole, placed in a community placement facility of any

This document is an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

kind, including a community corrections center or a community residential home, or discharged upon completion of his or her maximum sentence before January 1, 2012, the samples shall be obtained before the date of release, placement, or discharge.

(b) For a prisoner serving a sentence in a state correctional facility or a probationer in a special alternative incarceration program whose sentence begins after June 1, 2011, the samples shall be obtained not later than 90 days after the date on which the prisoner or probationer is committed to the jurisdiction of the department.

(2) If, at the time the prisoner or probationer is to be released, placed, or discharged the department of state police already has a sample from the prisoner or probationer that meets the requirements of the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176, the prisoner or probationer is not required to provide another sample or pay the fee required under subsection (5).

(3) The samples required to be collected under this section shall be collected by the department and transmitted by the department to the department of state police in the manner prescribed under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176.

(4) The department shall collect a sample under this section regardless of whether the prisoner consents to the collection. The department is not required to give the prisoner an opportunity for a hearing or obtain a court order before collecting the sample.

(5) A prisoner or probationer shall pay an assessment of $60.00. The department shall transmit the assessments or portions of assessments collected to the department of treasury for the department of state police forensic science division to defray the costs associated with the requirements of DNA profiling and DNA retention prescribed under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176.

(6) The DNA profiles of DNA samples received under this section shall only be disclosed as follows:

(a) To a criminal justice agency for law enforcement identification purposes.

(b) In a judicial proceeding as authorized or required by a court.

(c) To a defendant in a criminal case if the DNA profile is used in conjunction with a charge against the defendant.

(d) For an academic, research, statistical analysis, or protocol developmental purpose only if personal identifications are removed.

(7) As used in this section, "sample" means a portion of the blood, saliva, or tissue collected from the prisoner or probationer.

History: Add. 1990, Act 251, Eff. Sept. 1, 1994;—Am. 1994, Act 164, Eff. Sept. 1, 1994;—Am. 1996, Act 509, Imd. Eff. Jan. 9, 1997;—Am. 2001, Act 86, Eff. Jan. 1, 2002;—Am. 2011, Act 127, Imd. Eff. July 21, 2011.

Compiler's note: Section 2 of Act 251 of 1990 provides: “This amendatory act shall not take effect unless the sponsor of this bill provides an enacted source of revenue to fully fund the program and the legislature appropriates sufficient money to fund the program it creates.”

Popular name: Department of Corrections Act

791.233e Parole guidelines; rules; reasons for departure from guidelines; report.

Sec. 33e. (1) The department shall develop parole guidelines that are consistent with section 33(1)(a) to govern the exercise of the parole board's discretion under sections 34 and 35 as to the release of prisoners on parole under this act. The purpose of the parole guidelines is to assist the parole board in making objective, evidence-based release decisions that enhance the public safety.

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

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

(b) The prisoner's institutional program performance.

(c) The prisoner's institutional conduct.

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

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

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

(a) The prisoner's statistical risk screening.

(b) The prisoner's age.

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

(5) The department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306,

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

MCL 24.201 to 24.328, that prescribe the parole guidelines.

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

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

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

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

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

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

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

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

(g) The prisoner has a pending felony charge or is subject to a detainer request from another jurisdiction.

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

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

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

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

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

(9) The parole board shall conduct a review of a prisoner, except for a prisoner serving a life sentence, who has been denied parole as follows:

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

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

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

(11) By March 1 of each year, the department shall report to the standing committees of the senate and the house of representatives having jurisdiction of corrections issues and the criminal justice policy commission created under section 32a of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.32a, all of the following information:

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

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

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

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

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

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

(*i*) Homicide.

(*ii*) Sexual offense.

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

(*iv*) A nonassaultive offense.

(*v*) A controlled substance offense.

(f) Of the total number of prisoners subject to subsection (7) who scored high probability of parole and were denied parole, the number who have served the following amount of time after completing their minimum sentence:

(*i*) Less than 1 year.

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

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

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

(*v*) Four or more years.

(12) The department shall immediately advise the standing committees of the senate and house of representatives having jurisdiction of corrections issues and the criminal justice policy commission described in subsection (11) of any changes made to the scoring of the parole guidelines after the effective date of the amendatory act that added this subsection, including a change in the number of points that define "high probability of parole".

(13) Subsections (6), (7), and (8) as amended or added by the amendatory act that added this subsection apply only to prisoners whose controlling offense was committed on or after the effective date of the amendatory act that added this subsection. Subsections (7) and (8) do not apply to a prisoner serving a life sentence, regardless of the date of his or her controlling offense.

History: Add. 1992, Act 181, Imd. Eff. Sept. 22, 1992;—Am. 2018, Act 339, Eff. Dec. 12, 2018.

Popular name: Department of Corrections Act

791.234 Prisoners subject to jurisdiction of parole board; indeterminate and other sentences; termination of sentence; prisoner sentenced to imprisonment for life; ineligibility for parole; criteria for placement on parole; conditions; interview; release on parole; discretion of parole board; appeal to circuit court; cooperation with law enforcement by prisoner violating MCL 333.7401 and 333.7403; offenses occurring before certain date; notice to prosecuting attorney before granting parole; motion to object; procedures; definitions.

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

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

(3) Except for a prisoner granted parole under section 35(10), if a prisoner other than a prisoner subject to disciplinary time is sentenced for consecutive terms, whether received at the same time or at any time during the life of the original sentence, the parole board has jurisdiction over the prisoner for purposes of parole when the prisoner has served the total time of the added minimum terms, less the good time and disciplinary credits allowed by statute. The maximum terms of the sentences must be added to compute the new maximum term under this subsection, and discharge must be issued only after the total of the maximum sentences has been served less good time and disciplinary credits, unless the prisoner is paroled and discharged upon satisfactory completion of the parole.

(4) Except for a prisoner granted parole under section 35(10), if a prisoner subject to disciplinary time is sentenced for consecutive terms, whether received at the same time or at any time during the life of the original sentence, the parole board has jurisdiction over the prisoner for purposes of parole when the prisoner has served the total time of the added minimum terms. The maximum terms of the sentences must be added to compute the new maximum term under this subsection, and discharge must be issued only after the total of

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

the maximum sentences has been served, unless the prisoner is paroled and discharged upon satisfactory completion of the parole.

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

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

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

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

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

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

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

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

(7) Except for a prisoner granted parole under section 35(10), a prisoner sentenced to imprisonment for life, other than a prisoner described in subsection (6), is subject to the jurisdiction of the parole board and may be placed on parole according to the conditions prescribed in subsection (8) if he or she meets any of the following criteria:

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

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

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

(8) A parole granted to a prisoner under subsection (7) is subject to the following conditions:

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

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

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

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

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

(a) The prisoner must be given written notice, not less than 30 days before the interview date, stating that

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

the interview will be conducted.

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

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

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

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

(c) Any of the following:

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

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

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

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

(11) Except as provided in subsection (19) and section 34a, a prisoner's release on parole is discretionary with the parole board. The action of the parole board in granting a parole is appealable by the prosecutor of the county from which the prisoner was committed or the victim of the crime for which the prisoner was convicted. The appeal must be to the circuit court in the county from which the prisoner was committed, by leave of the court.

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

(13) Except for a prisoner granted parole under section 35(10) and notwithstanding subsections (1) and (2), a prisoner convicted of violating, or attempting or conspiring to violate, section 7401(2)(a)(*i*) or 7403(2)(a)(*i*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, whose offense occurred before March 1, 2003, and who was sentenced to a term of years, is eligible for parole after serving 20 years of the sentence imposed for the violation if the individual has another serious crime or 17-1/2 years of the sentence if the individual does not have another conviction for a serious crime, or after serving the minimum sentence imposed for that violation, whichever is less.

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

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

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

of each sentence imposed for that violation, whichever is less.

(16) Except for a prisoner granted parole under section 35(10) and notwithstanding subsections (1) and (2), a prisoner who was convicted of violating, or attempting or conspiring to violate, section 7401(2)(a)(*iv*) or 7403(2)(a)(*iv*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, whose offense occurred before March 1, 2003, who was sentenced according to those sections of law as they existed before March 1, 2003 to consecutive terms of imprisonment for 2 or more violations of section 7401(2)(a) or 7403(2)(a) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, is eligible for parole after serving 1/2 of the minimum sentence imposed for each violation of section 7401(2)(a)(*iv*) or 7403(2)(a)(*iv*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403. This subsection applies only to sentences imposed for violations of section 7401(2)(a)(*iv*) or 7403(2)(a)(*iv*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, and does not apply if the sentence was imposed for a conviction for a new offense committed while the individual was on probation or parole.

(17) Except for a prisoner granted parole under section 35(10) and notwithstanding subsections (1) and (2), a prisoner who was convicted of violating, or attempting or conspiring to violate, section 7401(2)(a)(*ii*) or (*iii*) or 7403(2)(a)(*ii*) or (*iii*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, who had a prior conviction for a violation of section 7401(2)(a)(*ii*) or (*iii*) or 7403(2)(a)(*ii*) or (*iii*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, and who was sentenced to life without parole under section 7413(1) of the public health code, 1978 PA 368, MCL 333.7413, according to that section as it existed before March 28, 2018 is eligible for parole after serving 5 years of each sentence imposed for that violation.

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

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

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

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

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

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

(22) As used in this section:

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

(b) "Serious crime" means violating or conspiring to violate article 7 of the public health code, 1978 PA 368, MCL 333.7101 to 333.7545, that is punishable by imprisonment for more than 4 years, or an offense against a person in violation of section 83, 84, 86, 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d, 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA 328, MCL 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.316, 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b, 750.520c, 750.520d, 750.520g, 750.529, 750.529a, and 750.530.

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

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1955, Act 107, Imd. Eff. June 3, 1955;—Am. 1957, Act 192, Eff. Sept. 27, 1957;—Am. 1958, Act 210, Eff. Sept. 13, 1958;—Am. 1978, Act 81, Eff. Sept. 1, 1978;—Am. 1982, Act 314, Imd. Eff. Oct. 15, 1982;—Am. 1992, Act 22, Imd. Eff. Mar. 19, 1992;—Am. 1992, Act 181, Imd. Eff. Sept. 22, 1992;—Am. 1994, Act 217, Eff. Dec. 15, 1998;—Am. 1994, Act 345, Eff. Jan. 1, 1995;—Am. 1998, Act 209, Eff. Oct. 1, 1998;—Am. 1998, Act 314, Eff. Oct. 1, 1998;—Am. 1998, Act 315, Eff. Dec. 15, 1998;—Am. 1998, Act 512, Imd. Eff. Jan. 8, 1999;—Am. 1999, Act 191, Eff. Mar. 10, 2000;—Am. 2002, Act 670, Eff. Mar. 1, 2003;—Am. 2004, Act 218, Eff. Oct. 12, 2004;—Am. 2006, Act 167, Eff. Aug. 28, 2006;—Am. 2010, Act 353, Imd. Eff. Dec. 22, 2010;—Am. 2016, Act 354, Eff. Mar. 21, 2017;—Am. 2017, Act 265, Eff. Mar. 28, 2018;—Am. 2019, Act 14, Eff. Aug. 21, 2019.

Constitutionality: A mandatory sentence of life without parole does not violate the prohibition against cruel and unusual punishments of the Eighth Amendment to the United States Constitution, because the Eighth Amendment contains no proportionality guarantee. Neither does the Eighth Amendment prohibit the imposition of mandatory sentences -- "severe, mandatory penalties may be cruel, but they are not unusual in the constitutional sense ... " -- nor does it require consideration of individualized, mitigating circumstances beyond those cases in which a capital sentence is imposed. Harmelin v Michigan, 501 US 957; 111 S Ct 2680; 115 L Ed2d 836 (1991).

In People v Bullock, 440 Mich 15; 485 NW2d 866 (1992), the Michigan Supreme Court held that the Michigan Constitution prohibits cruel or unusual punishment while the Eighth Amendment to the US Constitution bars only punishment that is both cruel and unusual. Basing its decision on the textual difference, the Michigan Supreme Court held that the statutory penalty of mandatory life in prison without parole for possession of 650 grams or more of any mixture containing cocaine is so grossly disproportionate as to be cruel or unusual, the result being that those portions of the statutes denying parole consideration are struck down.

Popular name: Department of Corrections Act

791.234a Placement of prisoner in special alternative incarceration unit.

Sec. 34a. (1) A prisoner sentenced to an indeterminate term of imprisonment under the jurisdiction of the department, regardless of when he or she was sentenced, shall be considered by the department for placement in a special alternative incarceration unit established under section 3 of the special alternative incarceration act, 1988 PA 287, MCL 798.13, if the prisoner meets the eligibility requirements of subsections (2) and (3). For a prisoner committed to the jurisdiction of the department on or after March 19, 1992, the department shall determine before the prisoner leaves the reception center whether the prisoner is eligible for placement in a special alternative incarceration unit, although actual placement may take place at a later date. A determination of eligibility does not guarantee placement in a unit.

(2) To be eligible for placement in a special alternative incarceration unit, the prisoner shall meet all of the following requirements:

(a) The prisoner's minimum sentence does not exceed either of the following limits, as applicable:

(*i*) Twenty-four months or less for a violation of section 110 or 110a of the Michigan penal code, 1931 PA 328, MCL 750.110 and 750.110a, if the violation involved any occupied dwelling house.

(*ii*) Thirty-six months or less for any other crime.

(b) The prisoner has never previously been placed in a special alternative incarceration unit as either a prisoner or a probationer, unless he or she was removed from a special alternative incarceration unit for medical reasons as specified in subsection (7).

(c) The prisoner is physically able to participate in the program.

(d) The prisoner does not appear to have any mental disability that would prevent participation in the program.

(e) The prisoner is serving his or her first prison sentence.

(f) At the time of sentencing, the judge did not prohibit participation in the program in the judgment of sentence.

(g) The prisoner is otherwise suitable for the program, as determined by the department.

(h) The prisoner is not serving a sentence for any of the following crimes:

(*i*) A violation of section 49, 80, 83, 89, 91, 157b, 158, 207, 260, 316, 317, 327, 328, 335a, 338, 338a, 338b, 349, 349a, 350, 422, 436, 511, 520b, 529, 529a, 531, or 544 of the Michigan penal code, 1931 PA 328, MCL 750.49, 750.80, 750.83, 750.89, 750.91, 750.157b, 750.158, 750.207, 750.260, 750.316, 750.317, 750.327, 750.328, 750.335a, 750.338, 750.338a, 750.338b, 750.349, 750.349a, 750.350, 750.422, 750.436, 750.511, 750.520b, 750.529, 750.529a, 750.531, and 750.544.

(*ii*) A violation of section 145c, 520c, 520d, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.145c, 750.520c, 750.520d, and 750.520g.

(*iii*) A violation of section 72, 73, or 75 of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.73, and 750.75.

(*iv*) A violation of section 86, 112, 136b, 193, 195, 213, 319, 321, 329, or 397 of the Michigan penal code, 1931 PA 328, MCL 750.86, 750.112, 750.136b, 750.193, 750.195, 750.213, 750.319, 750.321, 750.329, and 750.397.

(*v*) A violation of section 2 of 1968 PA 302, MCL 752.542.

(*vi*) An attempt to commit a crime described in subparagraphs (*i*) to (*v*).

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(*vii*) A violation occurring on or after January 1, 1992, of section 625(4) or (5) of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

(*viii*) A crime for which the prisoner was punished under section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

(3) A prisoner who is serving a sentence for a violation of section 7401 or 7403 of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, and who has previously been convicted for a violation of section 7401 or 7403(2)(a), (b), or (e) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, is not eligible for placement in a special alternative incarceration unit until after he or she has served the equivalent of the mandatory minimum sentence prescribed by statute for that violation.

(4) If the sentencing judge prohibited a prisoner's participation in the special alternative incarceration program in the judgment of sentence, that prisoner shall not be placed in a special alternative incarceration unit. If the sentencing judge permitted the prisoner's participation in the special alternative incarceration program in the judgment of sentence, that prisoner may be placed in a special alternative incarceration unit if the department determines that the prisoner also meets the requirements of subsections (2) and (3). If the sentencing judge neither prohibited nor permitted a prisoner's participation in the special alternative incarceration program in the judgment of sentence, and the department determines that the prisoner meets the eligibility requirements of subsections (2) and (3), the department shall notify the judge or the judge's successor, the prosecuting attorney for the county in which the prisoner was sentenced, and any victim of the crime for which the prisoner was committed if the victim has submitted to the department a written request for any notification under section 19(1) of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.769, of the proposed placement of the prisoner in the special alternative incarceration unit. The notices shall be sent not later than 30 days before placement is intended to occur. The department shall not place the prisoner in a special alternative incarceration unit unless the sentencing judge, or the judge's successor, notifies the department, in writing, that he or she does not object to the proposed placement. In making the decision on whether or not to object, the judge, or judge's successor, shall review any impact statement submitted under section 14 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.764, by the victim or victims of the crime of which the prisoner was convicted.

(5) Notwithstanding subsection (4), a prisoner shall not be placed in a special alternative incarceration unit unless the prisoner consents to that placement and agrees that the department may suspend or restrict privileges generally afforded other prisoners including, but not limited to, the areas of visitation, property, mail, publications, commissary, library, and telephone access. However, the department may not suspend or restrict the prisoner's access to the prisoner grievance system.

(6) Notwithstanding subsections (4) and (5), a prisoner shall not be placed in a special alternative incarceration unit unless all of the following conditions are met for the prisoner at the special alternative incarceration unit:

(a) Upon entry into the special alternative incarceration unit, a validated risk and need assessment from which a prisoner-specific transition accountability plan and prisoner-specific programming during program enrollment are utilized.

(b) Interaction with community-based service providers through established prison in-reach services from the community to which the prisoner will return is utilized.

(c) Prisoner discharge planning is utilized.

(d) Community follow-up services are utilized.

(7) A prisoner may be placed in a special alternative incarceration program for a period of not less than 90 days or more than 120 days. If, during that period, the prisoner misses more than 5 days of program participation due to medical excuse for illness or injury occurring after he or she was placed in the program, the period of placement shall be increased by the number of days missed, beginning with the sixth day of medical excuse, up to a maximum of 20 days. However, the total number of days a prisoner may be placed in this program, including days missed due to medical excuse, shall not exceed 120 days. A medical excuse shall be verified by a physician's statement. A prisoner who is medically unable to participate in the program for more than 25 days shall be returned to a state correctional facility but may be reassigned to the program if the prisoner meets the eligibility requirements of subsections (2) and (3).

(8) Upon certification of completion of the special alternative incarceration program, the prisoner shall be placed on parole. A prisoner paroled under this section shall have conditions of parole as determined appropriate by the parole board and shall be placed on parole for not less than 18 months, or the balance of the prisoner's minimum sentence, whichever is greater, with at least the first 120 days under intensive supervision.

(9) The parole board may suspend or revoke parole for any prisoner paroled under this section subject to sections 39a and 40a. For a prisoner other than a prisoner subject to disciplinary time, if parole is revoked

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

before the expiration of the prisoner's minimum sentence, less disciplinary credits, the parole board shall forfeit, under section 33(13) of 1893 PA 118, MCL 800.33, all disciplinary credits that were accumulated during special alternative incarceration, and the prisoner shall be considered for parole under section 35.

(10) The department shall report annually to the legislature the impact of the operation of this section, including a report concerning recidivism.

(11) The department shall contract annually for third-party evaluations that report on both of the following:

(a) The implementation of the requirements of subsection (6).

(b) The success of the special alternative incarceration program as revised under subsection (6), as evidenced by the extent to which participants subsequently violate the conditions of their parole, have their orders of parole revoked, or revictimize as evidenced by being arrested or convicted for new offenses, absconding from parole, or having outstanding warrants.

(12) Each prisoner or probationer placed in the special alternative incarceration program shall fully participate in the Michigan prisoner reentry initiative.

History: Add. 2010, Act 194, Imd. Eff. Sept. 30, 2010;—Am. 2012, Act 259, Imd. Eff. July 2, 2012.

Compiler's note: Former MCL 791.234a, which pertained to placement of prisoner in special alternative incarceration unit, was repealed by Act 107 of 2009, Eff. Sept. 30, 2010.

Popular name: Department of Corrections Act

791.234b Placement of prisoner on parole; release to United States immigration and customs enforcement; deportation.

Sec. 34b. (1) Notwithstanding sections 33 and 34, and subject to subsection (3), the parole board shall place a prisoner described in subsection (2) on parole and release that prisoner to the custody and control of the United States immigration and customs enforcement for the sole purpose of deportation.

(2) Only prisoners who meet all of the following conditions are eligible for parole under this section:

(a) A final order of deportation has been issued against the prisoner by the United States immigration and naturalization service.

(b) The prisoner has served at least 1/2 of the minimum sentence imposed by the court.

(c) The prisoner is not serving a sentence for any of the following crimes:

(*i*) A violation of section 316 or 317 of the Michigan penal code, 1931 PA 328, MCL 750.316 and 750.317 (first or second degree homicide).

(*ii*) A violation of section 520b, 520c, or 520d of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d (criminal sexual conduct).

(d) The prisoner was not sentenced pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

(3) The parole board shall not place a prisoner on parole under this section unless it has received from the United States immigration and naturalization service assurance as to both of the following:

(a) That an order of deportation will be executed or that proceedings will promptly be commenced for the purpose of deportation upon release of the prisoner from the custody of the department.

(b) That the prisoner, if placed on parole under this section, will not be released from the custody of the United States immigration and naturalization service for any reason other than deportation, unless the United States immigration and naturalization service provides to the board a reasonable opportunity to arrange for execution of the department's warrant for the return of the prisoner to the custody of the department as provided in subsection (4).

(4) A prisoner placed on parole under this section shall be delivered to the custody of the United States immigration and naturalization service along with a warrant issued by the deputy director of the bureau of field services for the prisoner's return to the custody of the department, to be executed if the prisoner is released from the custody of the United States immigration and naturalization service for any reason other than deportation. If the prisoner is not deported, the parole board shall do all of the following:

(a) Execute the warrant.

(b) Return the prisoner to the custody of the department.

(c) Revoke the prisoner's parole.

(5) The term of a parole granted under this section shall be equal to the remaining balance of the prisoner's maximum sentence. As a condition of parole granted under this section, the paroled prisoner shall not return illegally to the United States. If a prisoner who is placed on parole under this section returns illegally to the United States at any time before the expiration of the term of his or her parole, the deputy director of the bureau of field services, upon notification from any federal or state law enforcement agency that the prisoner is in custody, shall issue a warrant for the return of the prisoner, and the prisoner's parole shall be revoked. A prisoner who is returned under this subsection is not eligible for parole or any other release from confinement

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

during the remainder of his or her maximum sentence.

History: Add. 2010, Act 223, Eff. Mar. 30, 2011.

Popular name: Department of Corrections Act

791.234c Prisoner reentry; identification documents; refusal of prisoner to obtain documents; written information to be provided to prisoner; electronic access by secretary of state to prisoner information; reentry success fund.

Sec. 34c. (1) The department, by contract or otherwise, shall assist prisoners with reentry into the community, including, but not limited to, doing both of the following:

(a) Assisting prisoners in obtaining the identification documents described in this section.

(b) Subject to the department's security needs, reasonably allowing prisoners to obtain the following identification documents before those prisoners are released on parole or discharged upon completion of their maximum sentences:

(*i*) Any of the identification documents that, in combination with the prisoner identification card issued under section 37(4), would satisfy the application requirements for obtaining an operator's license or state personal identification card as established by the secretary of state under section 307 of the Michigan vehicle code, 1949 PA 300, MCL 257.307, or section 1 of 1972 PA 222, MCL 28.291.

(*ii*) A social security card or social security number verification, if possible to obtain.

(2) A prisoner's refusal to obtain or attempt to obtain the documents identified in subsection (1)(b) may be included as part of the prisoner's parole eligibility report, as provided in section 35(7)(e).

(3) This section applies to all prisoners who are serving a sentence under the jurisdiction of the department after the effective date of the amendatory act that added this section who are eligible to obtain an operator's license under section 307 of the Michigan vehicle code, 1949 PA 300, MCL 257.307, or a state personal identification card under section 1 of 1972 PA 222, MCL 28.291.

(4) The department shall include in writing to each prisoner the information described in section 14(9)(b) of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.14, listing the identification documents referenced in subsection (1). For a prisoner who begins serving a sentence under the jurisdiction of the department after the effective date of the amendatory act that added this section, the department shall provide that written information during reception center processing. For any prisoner who is under the jurisdiction of the department on the effective date of the amendatory act that added this section, the department shall provide that written information as follows:

(a) For a prisoner with less than 1 year remaining before parole eligibility, within 90 days after that effective date.

(b) For any other prisoner, the information shall be given at the time the parole eligibility report is prepared.

(5) The department shall allow the secretary of state to have electronic access to prisoner information for the purpose of verifying the identity of prisoners who apply for driver licenses or state personal identification cards.

(6) The reentry success fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The department of corrections shall expend money from the reentry success fund, upon appropriation, only for the expenses of performing the activities required by this section.

History: Add. 2012, Act 24, Imd. Eff. Feb. 23, 2012.

Popular name: Department of Corrections Act

791.234d Documents to be issued prisoner upon release; certificate of employability; issuance; revocation; false statement or representation as misdemeanor; confirmation of validity; form; liability of department for certain actions.

Sec. 34d. (1) When a prisoner is released, the department shall issue to that prisoner documents regarding all of the following:

(a) The prisoner's criminal convictions.

(b) The prisoner's institutional history including all of the following:

(*i*) Any record of institutional misconduct.

(*ii*) Whether the prisoner successfully completed programming provided by the department or a person or entity under contract with the department.

(*iii*) Whether the prisoner obtained a high school equivalency certificate or other educational degree.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(*iv*) The prisoner's institutional work record.

(c) Other information considered relevant by the department.

(2) In addition to the documents provided under subsection (1), the department shall issue a certificate of employability described in subsection (8) to a prisoner if all of the following apply:

(a) The prisoner, while incarcerated, successfully completed or earned 1 or more of the following:

(*i*) A career and technical education course.

(*ii*) At least 36 credit hours at an accredited postsecondary educational institution.

(*iii*) An associate or bachelor's degree from an accredited postsecondary educational institution if at least 50% of the credit hours for that degree were completed while the prisoner was incarcerated.

(b) The prisoner received no major misconducts during the 2 years immediately preceding his or her release.

(c) The prisoner received no more than 3 minor misconducts during the 2 years immediately preceding his or her release.

(d) The prisoner received a silver level or better on his or her national work readiness certificate, or a similar score, as determined by the department, on an alternative job skills assessment test administered by the department.

(3) A certificate of employability must only be issued within 30 days before the prisoner is released from a correctional facility under section 35 and is valid unless revoked by the department. The department shall revoke the certificate of employability if the prisoner commits any criminal offense during the 30-day period before release and may revoke the certificate of employability if the prisoner has any institutional misconduct during that period. The department shall revoke the certificate of employability of any individual who commits a felony after receiving a certificate of employability under this section and who is then placed under the jurisdiction of the department for committing that felony.

(4) The department shall provide an individual with an opportunity to file a grievance related to the revocation of a certificate of employability under subsection (3) through the department's prisoner grievance system. The revocation of a certificate of employability is effective when the individual is notified of the revocation.

(5) An individual shall not intentionally state or otherwise represent that he or she has a valid certificate of employability issued by the department knowing that the statement or representation is false. An individual who violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(6) The revocation of a certificate of employability is for purposes of subsection (5) only and does not affect the right of an employer to rely on the validity of the certificate of employability unless the employer knew before the individual was employed that the certificate of employability was fraudulent.

(7) Upon request, the department shall confirm whether a certificate of employability has been issued to a named individual and whether the certificate is valid at the time of the inquiry and at the time of the department's response to that inquiry.

(8) A certificate of employability under this section must be on a form provided by the department.

(9) The department is not civilly liable for damages based upon its decision to issue or to deny issuance of a certificate of employability to any prisoner or for revoking or failing to revoke a certificate of employability issued to any prisoner.

History: Add. 2014, Act 359, Eff. Jan. 1, 2015;—Am. 2017, Act 14, Eff. June 29, 2017;—Am. 2018, Act 531, Eff. Mar. 28, 2019.

791.235 Release of prisoner on parole; procedure; medical parole for medically frail; definitions.

Sec. 35. (1) The release of a prisoner on parole must be granted solely upon the initiative of the parole board. There is no entitlement to parole. The parole board may grant a parole without interviewing the prisoner if, after evaluating the prisoner according to the parole guidelines, the parole board determines that the prisoner has a high probability of being paroled and the parole board therefore intends to parole the prisoner. Except as provided in subsection (2), a prisoner must not be denied parole without an interview before 1 member of the parole board. The interview must be conducted at least 1 month before the expiration of the prisoner's minimum sentence less applicable good time and disciplinary credits for a prisoner eligible for good time and disciplinary credits, or at least 1 month before the expiration of the prisoner's minimum sentence for a prisoner subject to disciplinary time. The parole board shall consider any statement made to the parole board by a crime victim under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, or under any other provision of law. The parole board shall not consider any of the following factors in making a parole determination:

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

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

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

(2) If, after evaluating a prisoner according to the parole guidelines, the parole board determines that the prisoner has a low probability of being paroled and the parole board therefore does not intend to parole the prisoner, the parole board is not required to interview the prisoner before denying parole to the prisoner.

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

(a) A prisoner's marital history.

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

(4) If an interview is to be conducted, the prisoner must be sent a notice of intent to conduct an interview not less than 1 month before the date of the interview. The notice must state the specific issues and concerns that will be discussed at the interview and that may be a basis for a denial of parole. The parole board shall not deny parole based on reasons other than those stated in the notice of intent to conduct an interview except for good cause stated to the prisoner at or before the interview and in the written explanation required by subsection (20).

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

(6) A prisoner may waive the right to an interview by 1 member of the parole board. The waiver of the right to be interviewed must be in writing and given not more than 30 days after the notice of intent to conduct an interview is issued. During the interview held under a notice of intent to conduct an interview, the prisoner may be represented by an individual of his or her choice. The representative shall not be another prisoner or an attorney. A prisoner is not entitled to appointed counsel at public expense. The prisoner or representative may present relevant evidence in support of release.

(7) At least 90 days before the expiration of the prisoner's minimum sentence less applicable good time and disciplinary credits for a prisoner eligible for good time or disciplinary credits, or at least 90 days before the expiration of the prisoner's minimum sentence for a prisoner subject to disciplinary time, or the expiration of a 12-month continuance for any prisoner, or at the request of the parole board for a prisoner being considered for parole under subsection (10), the appropriate institutional staff shall prepare a parole eligibility report. The parole eligibility report is considered pertinent information for purposes of subsection (5). The report must include all of the following:

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

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

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

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

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

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

(g) The result on any validated risk assessment instrument.

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

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

(10) Except for a prisoner who was convicted of any crime that is punishable by a term of life imprisonment without parole or of a violation of section 520b of the Michigan penal code, 1931 PA 328, MCL 750.520b, the parole board may grant a medical parole for a prisoner determined to be medically frail. A decision to grant a medical parole must be initiated on the recommendation of the bureau of health care services. If the bureau of health care services believes that the prisoner is medically frail, the bureau shall utilize a specialist in the appropriate field of medicine, who is not employed by the department, to evaluate the condition of the prisoner and to report on that condition to the bureau. The parole board, in consultation with the bureau of health care services, shall determine whether the prisoner is medically frail. If the parole

CAUTION! This document is from a Compiled Laws and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

board determines that a prisoner is medically frail and is going to be considered for parole under this subsection, the parole board shall provide the notice and medical records required under section 34(18). Unless the prosecutor of the county from which the prisoner was committed files a motion under section 34(19), the parole board may grant parole to a prisoner who is determined to be medically frail. If a motion is filed under section 34(19) and the court finds that the prisoner is eligible for parole as a result of being medically frail, and if no additional appeals are pending, the parole board may grant parole to the prisoner under this subsection. The requirements of sections 33(1)(b), (c), (d), and (f), 33b, and 34(1), (2), (3), (4), (7), (13), (14), (15), (16), and (17) do not apply to a parole granted under this subsection.

(11) The following conditions apply to a parole granted under subsection (10):

(a) A prisoner must only be released on parole under subsection (10) if he or she agrees to all of the following:

(*i*) His or her placement, or, if the parolee is unable to consent because of the parolee's physical or mental health condition, an individual legally entitled to agree to the parolee's placement agrees that the parolee be placed, in a medical facility approved by the parole board where medical care and treatment can be provided.

(*ii*) To the release of his or her medical records that are directly relevant to the condition or conditions rendering the prisoner medically frail to the prosecutor and sentencing or successor judge of the county from which the prisoner was committed before the parole board determines whether or not to grant the prisoner parole under subsection (10).

(*iii*) An independent medical exam if sought by the prosecutor of the county from which the prisoner was committed as provided under section 34(19). If possible, this independent medical exam must occur at a facility of the department. The reasonable costs of this independent medical exam must be paid for by the department.

(b) The parolee shall adhere to the terms of his or her parole for the length of his or her parole term.

(c) The parole must be for a term not less than the time necessary to reach the prisoner's earliest release date.

(d) A parolee who violates the terms of his or her parole or is determined to no longer meet the definition of medically frail may be transferred to a setting more appropriate for the medical needs of the parolee or be subject to the parole violation process under sections 38, 39, 39a, and 40a as determined by the parole board and the department.

(e) The parolee must only be placed in a medical facility that agrees to accept the parolee and that is agreed upon by the parolee as described in subdivision (a)(*i*).

(12) The parolee or an individual legally entitled to agree to the parolee's placement under subsection (11)(a)(*i*), other than the medical facility, shall immediately inform the parole board if any of the following occur:

(a) The parolee is no longer eligible for care at the medical facility at which he or she was placed.

(b) The parolee must be moved to another location for medical care.

(c) The parolee is no longer at the medical facility approved by the parole board.

(d) The parolee no longer needs the level of care that resulted in the parolee's placement at the medical facility.

(13) The parole board shall immediately notify the prosecutor for the county in which the offender was convicted and the sentencing or successor judge if the parolee is no longer eligible for care or no longer needs the level of care for which the prisoner was placed at the medical facility.

(14) The department shall not retain authority over the medical treatment plan for a prisoner granted parole under subsection (10) and a prisoner granted parole under subsection (10) must have full patient rights at the medical facility where he or she is placed.

(15) The department and the parole board shall ensure that the placement and terms and conditions of a parole granted under subsection (10) do not violate any other state or federal regulations.

(16) A medical facility housing parolees granted parole under subsection (10) must be operated in a manner that ensures the safety of the residents of the medical facility.

(17) A parolee granted parole under subsection (10) and placed in a medical facility has the same patient rights and responsibilities as any other individual who is a resident of or has been admitted to the medical facility. The medical facility is not responsible for the enforcement of conditions of parole or the reporting of violations of conditions of parole for any parolee placed in the medical facility. The medical facility shall comply with state and federal laws and regulations that protect resident rights and state and federal laws and regulations for skilled nursing facilities, regardless of the conditions of parole imposed on a resident parolee.

(18) The process for a parole determination under subsection (10) does not change or affect any of the rights afforded to a victim under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

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

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

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

(22) As used in this section:

(a) "Activities of daily living" means basic personal care and everyday activities as described in 42 CFR 441.505, including, but not limited to, tasks such as eating, toileting, grooming, dressing, bathing, and transferring from 1 physical position to another, including, but not limited to, moving from a reclining position to a sitting or standing position.

(b) "Medical facility" means a hospital, hospice, nursing home, or other housing accommodation providing medical treatment suitable to the condition or conditions rendering the parolee medically frail.

(c) "Medically frail" describes an individual who is a minimal threat to society as a result of his or her medical condition, who has received a risk score of low on a validated risk assessment, whose recent conduct in prison indicates he or she is unlikely to engage in assaultive conduct, and who has 1 or both of the following:

(*i*) A permanent or terminal physical disability or serious and complex medical condition resulting in the inability to do 1 or more of the following without personal assistance:

(A) Walk.

(B) Stand.

(C) Sit.

(*ii*) A permanent or terminal disabling mental disorder, including dementia, Alzheimer's, or a similar degenerative brain disorder that results in the need for nursing home level of care, and a significantly impaired ability to perform 2 or more activities of daily living.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1982, Act 314, Imd. Eff. Oct. 15, 1982;—Am. 1984, Act 414, Eff. Mar. 29, 1985;—Am. 1992, Act 22, Imd. Eff. Mar. 19, 1992;—Am. 1992, Act 181, Imd. Eff. Sept. 22, 1992;—1994, Act 217, Eff. Dec. 15, 1998;—Am. 1998, Act 315, Eff. Dec. 15, 1998;—Am. 2012, Act 24, Imd. Eff. Feb. 23, 2012;—Am. 2018, Act 339, Eff. Dec. 12, 2018;—Am. 2019, Act 13, Eff. Aug. 21, 2019.

Transfer of powers: See MCL 791.301.

Popular name: Department of Corrections Act

791.236 Order of parole; notice; rescission; amendment; individualized conditions; supervision; restitution; payment of parole supervision fee; condition requiring payment of assessment or minimum state cost; compliance with sex offenders registration act; violation of certain sections; condition requiring housing in community corrections center or community residential home; condition requiring payment by parolee; review to ensure payment of restitution; report of violation; registration of parolee; electronic monitoring; condition to protect named person; release of prisoner; notice of residence or domicile; monitoring by global positioning monitoring system; written consent to submit to search; "violent felony" defined.

Sec. 36. (1) All paroles must be ordered by the parole board and must be signed by the chairperson. Written notice of the order must be sent by first-class mail or by electronic means to the prosecuting attorney and the sheriff or other police officer of the municipality or county in which the prisoner was convicted and to the prosecuting attorney and the sheriff or other local police officer of the municipality or county to which the paroled prisoner is sent or is to be sent. The notice must be provided not more than 10 days after the parole board issues its order to parole the prisoner.

(2) A parole order may be rescinded at the discretion of the parole board for cause before the prisoner is released on parole. A parole must not be revoked unless an interview with the prisoner is conducted by 1 member of the parole board. The purpose of the interview is to consider and act upon information received by the board after the original parole release decision. A revocation interview must be conducted not more than

CAUTION This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

45 days after the board received the new information. Not less than 10 days before the interview, the parolee must receive a copy or summary of the new evidence that is the basis for the interview.

(3) A parole order may be amended at the discretion of the parole board for cause or to adjust conditions as the parole board determines is appropriate. An amendment to a parole order must be in writing and is not effective until notice of the amendment is given to the parolee.

(4) When a parole order is issued, the order must contain the conditions of the parole and must specifically provide proper means of supervision of the paroled prisoner in accordance with the rules of the field operations administration. The conditions of the parole must be individualized, must specifically address the assessed risks and needs of the parolee, must be designed to reduce recidivism, and must consider the needs of the victim, if applicable, including, but not limited to, the safety needs of the victim or a request by the victim for protective conditions.

(5) The parole order must contain a condition to pay restitution to the victim of the prisoner's crime or the victim's estate if the prisoner was ordered to make restitution under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, or the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69.

(6) The parole order must contain a condition requiring the parolee to pay a parole supervision fee as prescribed in section 36a.

(7) The parole order must contain a condition requiring the parolee to pay any assessment the prisoner was ordered to pay under section 5 of 1989 PA 196, MCL 780.905.

(8) The parole order must contain a condition requiring the parolee to pay the minimum state cost prescribed by section 1j of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1j, if the minimum state cost has not been paid.

(9) If the parolee is required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, the parole order must contain a condition requiring the parolee to comply with that act.

(10) If a prisoner convicted of violating or conspiring to violate section 7401(2)(a)(*i*) or (*ii*) or 7403(2)(a)(*i*) or (*ii*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, is released on parole, the parole order must contain a notice that if the parolee violates or conspires to violate article 7 of the public health code, 1978 PA 368, MCL 333.7101 to 333.7545, and that violation or conspiracy to violate is punishable by imprisonment for 4 or more years, or commits a violent felony during his or her release on parole, parole must be revoked.

(11) A parole order issued for a prisoner subject to disciplinary time may contain a condition requiring the parolee to be housed in a community corrections center or a community residential home for not less than the first 30 days but not more than the first 180 days of his or her term of parole. As used in this subsection, "community corrections center" and "community residential home" mean those terms as defined in section 65a.

(12) The parole order must contain a condition requiring the parolee to pay the following amounts owed by the prisoner, if applicable:

(a) The balance of filing fees and costs ordered to be paid under section 2963 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2963.

(b) The balance of any filing fee ordered to be paid by a federal court under 28 USC 1915 and any unpaid order of costs assessed against the prisoner.

(13) In each case in which payment of restitution is ordered as a condition of parole, a parole officer assigned to the case shall review the case not less than twice yearly to ensure that restitution is being paid as ordered. The final review must be conducted not less than 60 days before the expiration of the parole period. If the parole officer determines that restitution is not being paid as ordered, the parole officer shall file a written report of the violation with the parole board on a form prescribed by the parole board. The report must include a statement of the amount of arrearage and any reasons for the arrearage known by the parole officer. The parole board shall immediately provide a copy of the report to the court, the prosecuting attorney, and the victim.

(14) If a parolee is required to register under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, the parole officer shall register the parolee as provided in that act.

(15) If a parolee convicted of violating or conspiring to violate section 520b or 520c of the Michigan penal code, 1931 PA 328, MCL 750.520b and 750.520c, other than a parolee who is subject to lifetime electronic monitoring under section 85, is placed on parole, the parole board may require that the parolee be subject to electronic monitoring. The electronic monitoring required under this subsection must be conducted in the same manner, and is subject to the same requirements, as is described in section 520n(2) of the Michigan penal code, 1931 PA 328, MCL 750.520n, and section 85, except as follows:

(a) The electronic monitoring shall continue only for the duration of the term of parole.

CAUTION! This document is from the internet and may contain errors or be deleted in the future.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(b) A violation by the parolee of any requirement prescribed in section 520n(2) is a violation of a condition of parole, not a felony violation.

(16) If the parole order contains a condition intended to protect 1 or more named persons, the department shall enter those provisions of the parole order into the corrections management information system, accessible by the law enforcement information network. If the parole board rescinds a parole order described in this subsection, the department within 3 business days shall remove from the corrections management information system the provisions of that parole order.

(17) Each prisoner who is required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, before being released on parole or being released upon completion of his or her maximum sentence, shall provide to the department notice of the location of his or her proposed place of residence or domicile. The department then shall forward that notice of location to the appropriate law enforcement agency as required under section 5(3) of the sex offenders registration act, 1994 PA 295, MCL 28.725. A prisoner who refuses to provide notice of the location of his or her proposed place of residence or domicile or knowingly provides an incorrect notice of the location of his or her proposed place of residence or domicile under this subsection is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(18) If a prisoner is serving a sentence for violating section 411i of the Michigan penal code, 1931 PA 328, MCL 750.411i, and if a victim of that crime has registered to receive notices about that prisoner under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, the parole order for that prisoner must require that the prisoner's location be monitored by a global positioning monitoring system during the entire period of the prisoner's parole. If, at the time a prisoner described in this subsection is paroled, no victim of the crime has registered to receive notices about that prisoner under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, but a victim of the crime subsequently registers to receive those notices, the prisoner's order of parole must immediately be modified to require that the prisoner's location be monitored by a global positioning system during the balance of the period of that prisoner's parole. As used in this subsection, "global positioning monitoring system" means a system that electronically determines and reports the location of an individual by means of an ankle bracelet transmitter or similar device worn by the individual, which transmits latitude and longitude data to monitoring authorities through global positioning satellite technology but does not include any radio frequency identification technology, global positioning technology, or similar technology that would be implanted in the parolee or would otherwise violate the corporeal body of the parolee.

(19) The parole order must require the parolee to provide written consent to submit to a search of his or her person or property upon demand by a peace officer or parole officer. The written consent must include the prisoner's name and date of birth, his or her physical description, the date for release on parole, and the ending date for that parole. The prisoner shall sign the written consent before being released on parole. The department shall promptly enter this condition of parole into the department's corrections management information system or offender management network information system or into a corresponding records management system that is accessible through the law enforcement information network. Consent to a search as provided under this subsection does not authorize a search that is conducted with the sole intent to intimidate or harass.

(20) As used in this section, "violent felony" means an offense against a person in violation of section 82, 83, 84, 86, 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d, 520e, 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA 328, MCL 750.82, 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.316, 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b, 750.520c, 750.520d, 750.520e, 750.520g, 750.529, 750.529a, and 750.530.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1982, Act 314, Imd. Eff. Oct. 15, 1982;—Am. 1985, Act 85, Eff. July 10, 1985;—Am. 1989, Act 185, Eff. Oct. 1, 1989;—Am. 1993, Act 346, Eff. May 1, 1994;—Am. 1994, Act 217, Eff. Dec. 15, 1998;—Am. 1994, Act 287, Eff. Oct. 1, 1995;—Am. 1996, Act 554, Eff. June 1, 1997;—Am. 1998, Act 314, Eff. Oct. 1, 1998;—Am. 1998, Act 315, Eff. Dec. 15, 1998;—Am. 1999, Act 271, Eff. July 1, 2000;—Am. 2003, Act 75, Eff. Oct. 1, 2003;—Am. 2006, Act 168, Eff. Aug. 28, 2006;—Am. 2006, Act 316, Imd. Eff. July 20, 2006;—Am. 2006, Act 403, Eff. Dec. 1, 2006;—Am. 2008, Act 191, Imd. Eff. July 10, 2008;—Am. 2011, Act 165, Imd. Eff. Oct. 6, 2011;—Am. 2012, Act 623, Imd. Eff. Jan. 9, 2013;—Am. 2020, Act 398, Eff. Mar. 24, 2021.

Popular name: Department of Corrections Act

791.236a Collection of supervision fee by parole board; payment; allocation of money collected for other obligations; waiver of fee; determination and collection of fee for offender transferred to state under interstate compact; administrative costs; unpaid amounts; "electronic monitoring device" defined.

Sec. 36a. (1) Except as provided in subsection (6), the parole board shall include in each order of parole

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

that the department collect a parole supervision fee of $30.00 multiplied by the number of months of parole ordered, but not more than 60 months if the individual is placed on parole supervision without an electronic monitoring device. If the individual is placed on parole supervision under this subsection with an electronic monitoring device, the parole board shall include in each order of parole that the department shall collect a parole supervision fee of $60.00 multiplied by the number of months of parole ordered, but not more than 60 months. The fee is payable when the parole order is entered, but the fee may be paid in monthly installments if the parole board approves installment payments for that parolee.

(2) If a person who is subject to a supervision fee is also subject to any combination of fines, costs, restitution, assessments, or payments arising out of the same criminal proceeding, the allocation of money collected for those obligations must be as provided in section 22 of chapter XV of the code of criminal procedure, 1927 PA 175, MCL 775.22.

(3) A person must not be subject to more than 1 parole supervision fee at the same time. If a parole supervision fee is ordered for a parolee for any month or months during which that parolee already is subject to a parole supervision fee, the department shall waive the fee having the shorter remaining duration.

(4) The department shall waive the parole supervision fee for a parolee who is transferred to another state under the interstate compact entered into pursuant to 1935 PA 89, MCL 798.101 to 798.103, or the interstate compact entered into pursuant to the interstate compact for adult offender supervision, 2002 PA 40, MCL 3.1011 to 3.1012, for the months during which he or she is in another state. The department shall collect a parole supervision fee of $30.00 per month for each month of parole supervision in this state for an offender transferred to this state under an interstate compact if the offender is placed on parole supervision without an electronic monitoring device. If the offender is placed on parole supervision under this subsection with an electronic monitoring device, the department of corrections shall collect a parole supervision fee of $60.00 per month for each month of parole supervision in this state.

(5) Twenty percent of the money collected by the department under this section must be allocated for administrative costs incurred by the department in collecting parole supervision fees and for enhanced services, as described in this subsection. Enhanced services include, but are not limited to, the purchase of services for parolees such as counseling, employment training, employment placement, or education; public transportation expenses related to training, counseling, or employment; enhancement of staff performance through specialized training and equipment purchase; and purchase of items for parolee employment. At the end of each fiscal year, the unexpended balance of the money allocated for administrative costs and enhanced services must be available for carryforward to be used for the purposes described in this subsection in subsequent fiscal years.

(6) The department shall waive the supervision fee under subsections (1) and (4) if the department determines that an offender is indigent.

(7) The department shall not collect any fees for offenders supervised under this section for electronic monitoring in excess of the fees required to be collected under subsections (1) and (4).

(8) If a parolee has not paid the full amount of the parole supervision fee upon being discharged from parole including a parolee being supervised on parole on the effective date of the amendatory act that amended this subsection, the department shall waive any amount in excess of the aggregate sum of $30.00 per month for each month a parolee was supervised without an electronic monitoring device and $60.00 per month for each month the parolee was supervised with an electronic monitoring device. Any unpaid amounts not waived by the department must be reported to the department of treasury. The department of treasury shall attempt to collect the unpaid balances pursuant to section 30a of 1941 PA 122, MCL 205.30a. Money collected under this subsection must not be allocated for the purposes described in subsection (5).

(9) As used in this section, "electronic monitoring device" includes any electronic device or instrument that is used to track the location of an individual, enforce a curfew, or detect the presence of alcohol in an individual's body.

History: Add. 1989, Act 185, Eff. Oct. 1, 1989;—Am. 1993, Act 184, Imd. Eff. Sept. 30, 1993;—Am. 1993, Act 346, Imd. Eff. Jan. 10, 1994;—Am. 2002, Act 502, Imd. Eff. July 16, 2002;—Am. 2019, Act 164, Eff. Mar. 19, 2020.

Popular name: Department of Corrections Act

791.237 Paroled or discharged prisoner; furnishing clothing, transportation, and money; repayment of money; prisoner identification card; cost of implementing section.

Sec. 37. (1) When a prisoner is released upon parole, the department shall provide the prisoner with clothing and a nontransferable ticket to the place in which the paroled prisoner is to reside. At the discretion of the deputy director in charge of the field operations administration, the paroled prisoner may be advanced the expense of the transportation to the place of residence and a sum of money necessary for reasonable maintenance and subsistence for a 2-week period, as determined by the deputy director. A sum of money

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

given under this section shall be repaid to the state by the paroled prisoner within 180 days after the money is received by the paroled prisoner.

(2) If a prisoner who is discharged without being paroled has less than $75.00 in his or her immediate possession, has no visible means of support, and has conserved personal funds in a reasonable manner, the department shall furnish to that prisoner all of the following:

(a) Clothing that is appropriate for the season.

(b) A sum of $75.00 including that amount already in the prisoner's possession.

(c) Transportation to a place in this state where the prisoner will reside or work or to the place where the prisoner was convicted or sentenced.

(3) When providing for transportation, the department shall do all of the following:

(a) Use the most economical available public transportation.

(b) Arrange for and purchase the prisoner's transportation ticket.

(c) Assume responsibility for delivering that prisoner to the site of departure and confirming the prisoner's departure from the site.

(4) The department shall provide a prisoner identification card to each prisoner when he or she is released on parole or is released upon completion of his or her maximum sentence. The identification card shall include all of the following based upon all available information:

(a) The prisoner's photograph, taken every 3 years or upon significant appearance change, whichever occurs first.

(b) The prisoner's legal name as identified on the prisoner's birth certificate or on any 1 of the other citizenship identification documents specified by the secretary of state as being necessary to obtain an operator's license or state personal identification card, if those documents are available.

(c) The prisoner's date of birth.

(d) A statement as to whether the prisoner was placed on parole or discharged upon completion of his or her sentence.

(5) The cost of implementing this section shall be paid out of the general fund of the state.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1980, Act 22, Imd. Eff. Mar. 7, 1980;—Am. 1982, Act 314, Imd. Eff. Oct. 15, 1982;—Am. 1994, Act 217, Eff. Dec. 15, 1998;—Am. 2012, Act 24, Imd. Eff. Feb. 23, 2012.

Compiler's note: Section 2 of 1994 PA 217, which provides that "This amendatory act shall take effect on the date that sentencing guidelines are enacted into law after the sentencing commission submits its report to the secretary of the senate and the clerk of the house of representatives pursuant to sections 31 to 34 of chapter IX of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, as added by the amendatory act resulting from House Bill No. 4782 of the 87th Legislature." was repealed by 1998 PA 316, effective Dec. 15, 1998.

Popular name: Department of Corrections Act

791.238 Custody of paroled prisoner; warrant for return of paroled prisoner; incarceration pending hearing; treatment as escaped prisoner; time during parole violation not counted as time served; forfeiture of good time; committing crime while on parole; construction of parole.

Sec. 38. (1) Each prisoner on parole shall remain in the legal custody and under the control of the department. The deputy director of the bureau of field services, upon a showing of probable violation of parole, may issue a warrant for the return of any paroled prisoner. Pending a hearing upon any charge of parole violation, the prisoner shall remain incarcerated.

(2) A prisoner violating the provisions of his or her parole and for whose return a warrant has been issued by the deputy director of the bureau of field services is treated as an escaped prisoner and is liable, when arrested, to serve out the unexpired portion of his or her maximum imprisonment. The time from the date of the declared violation to the date of the prisoner's availability for return to an institution shall not be counted as time served. The warrant of the deputy director of the bureau of field services is a sufficient warrant authorizing all officers named in the warrant to detain the paroled prisoner in any jail of the state until his or her return to the state penal institution.

(3) If a paroled prisoner fails to return to prison when required by the deputy director of the bureau of field services or if the paroled prisoner escapes while on parole, the paroled prisoner shall be treated in all respects as if he or she had escaped from prison and is subject to be retaken as provided by the laws of this state.

(4) The parole board, in its discretion, may cause the forfeiture of all good time to the date of the declared violation.

(5) A prisoner committing a crime while at large on parole and being convicted and sentenced for the crime shall be treated as to the last incurred term as provided under section 34.

(6) A parole shall be construed as a permit to the prisoner to leave the prison, and not as a release. While at

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

large, the paroled prisoner shall be considered to be serving out the sentence imposed by the court and, if he or she is eligible for good time, shall be entitled to good time the same as if confined in a state correctional facility.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1968, Act 192, Eff. Nov. 15, 1968;—Am. 1982, Act 314, Imd. Eff. Oct. 15, 1982;—Am. 1994, Act 217, Eff. Dec. 15, 1998.

Compiler's note: Section 2 of 1994 PA 217, which provides that "This amendatory act shall take effect on the date that sentencing guidelines are enacted into law after the sentencing commission submits its report to the secretary of the senate and the clerk of the house of representatives pursuant to sections 31 to 34 of chapter IX of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, as added by the amendatory act resulting from House Bill No. 4782 of the 87th Legislature." was repealed by 1998 PA 316, effective Dec. 15, 1998.

Popular name: Department of Corrections Act

791.239 Paroled prisoner; arrest without warrant.

Sec. 39. A probation officer, a parole officer, a peace officer of this state, or an employee of the department other than a probation or parole officer who is authorized by the director to arrest parole violators may arrest without a warrant and detain in any jail of this state a paroled prisoner, if the probation officer, parole officer, peace officer, or authorized departmental employee has reasonable grounds to believe that the prisoner has violated parole or a warrant has been issued for his or her return under section 38.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1968, Act 192, Eff. Nov. 15, 1968;—Am. 1982, Act 314, Imd. Eff. Oct. 15, 1982;—Am. 1988, Act 293, Imd. Eff. Aug. 4, 1988.

Popular name: Department of Corrections Act

791.239a Arrest for alleged parole violation; right to preliminary hearing; notice of hearing; rights at hearing; postponement; notice of charges, summary of evidence, and determination of guilt when preliminary hearing not held.

Sec. 39a. (1) Within 10 days after an arrest for an alleged violation of parole, the parolee shall be entitled to a preliminary hearing to determine whether there is probable cause to believe that the conditions of parole have been violated or a fact-finding hearing held pursuant to section 40a.

(2) Prior to the preliminary hearing, the accused parolee shall be given written notice of the charges, time, place, and purpose of the preliminary hearing.

(3) At the preliminary hearing, the accused parolee is entitled to the following rights:

(a) Disclosure of the evidence against him or her.

(b) The right to testify and present relevant witnesses and documentary evidence.

(c) The right to confront and cross-examine adverse witnesses unless the person conducting the preliminary hearing finds on the record that a witness may be subjected to risk of harm if his or her identity is revealed.

(4) A preliminary hearing may be postponed beyond the 10-day time limit on the written request of the parolee, but shall not be postponed by the department.

(5) If a preliminary hearing is not held pursuant to subsection (1), an accused parolee shall be given written notice of the charges against him or her, the time, place and purpose of the fact-finding hearing and a written summary of the evidence to be presented against him or her.

(6) If a preliminary hearing is not held pursuant to subsection (1), an accused parolee may not be found guilty of a violation based on evidence that was not summarized in the notice provided pursuant to subsection (5) except for good cause stated on the record and included in the written findings of fact provided to the parolee.

History: Add. 1982, Act 314, Imd. Eff. Oct. 15, 1982.

Popular name: Department of Corrections Act

791.240 Prisoner convicted of violent felony; placement on parole; special provisions; history of substance abuse; report; definitions.

Sec. 40. (1) If a prisoner serving a sentence for conviction of a violent felony is placed on parole, both of the following special provisions apply:

(a) The supervising parole agent shall make a home call within the first 45 days after the prisoner is placed on parole.

(b) The supervising parole agent shall do a LEIN check not less than quarterly for that parolee and not later than 1 month before a parolee is discharged from parole.

(2) If a prisoner who has a history of substance abuse is placed on parole and is assigned to intensive, maximum, or medium parole supervision, the department shall require as a condition of parole that the

This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

parolee submit to substance abuse testing at least twice each month.

(3) The department shall report to the legislature on a quarterly basis both of the following:

(a) The number of parolees who are absconders.

(b) The number of parolees who have been absconders for more than 3 months.

(4) As used in this section:

(a) "LEIN" means the law enforcement information network regulated under the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215.

(b) "Substance abuse" means the taking of alcohol or other drugs at dosages that place an individual's social, economic, psychological, and physical welfare in potential hazard or to the extent that an individual loses the power of self-control as a result of the use of alcohol or drugs, or while habitually under the influence of alcohol or drugs, endangers public health, morals, safety, or welfare, or a combination thereof.

(c) "Violent felony" means that term as defined in section 36.

History: Add. 2006, Act 487, Eff. Jan. 1, 2007;—Am. 2018, Act 295, Eff. Sept. 27, 2018.

Compiler's note: Former MCL 791.240, which pertained to violation of parole, was repealed by Act 192 of 1968, Eff. Nov. 15, 1968.

Popular name: Department of Corrections Act

791.240a Parole; revocation; violation; right to fact-finding hearing; time and location of hearing; parolee determined to be indigent; appointment of attorney; notice; rights at hearing; postponement; notice to director if hearing not conducted within certain time period; insufficient evidence; reinstatement to parole status; finding of parole violation; revocation of parole; noncompliance with order to make restitution; "violent felony" defined.

Sec. 40a. (1) After a prisoner is released on parole, the prisoner's parole order is subject to revocation at the discretion of the parole board for cause as provided in this section.

(2) If a paroled prisoner who is required to register pursuant to the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, willfully violates that act, the parole board shall revoke the parole. If a prisoner convicted of violating or conspiring to violate section 7401(2)(a)(*i*) or (*ii*) or 7403(2)(a)(*i*) or (*ii*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, is released on parole and violates or conspires to violate article 7 of the public health code, 1978 PA 368, MCL 333.7101 to 333.7545, and that violation or conspiracy to violate is punishable by imprisonment for 4 or more years, or commits a violent felony during his or her release on parole, parole shall be revoked.

(3) Within 45 days after a paroled prisoner has been returned or is available for return to a state correctional facility under accusation of a parole violation other than conviction for a felony or misdemeanor punishable by imprisonment under the laws of this state, the United States, or any other state or territory of the United States, the prisoner is entitled to a fact-finding hearing on the charges before 1 member of the parole board or an attorney hearings officer designated by the chairperson of the parole board. The fact-finding hearing shall be conducted only after the accused parolee has had a reasonable amount of time to prepare a defense. The fact-finding hearing may be held at a state correctional facility or at or near the location of the alleged violation.

(4) If, before a fact-finding hearing begins, the accused parolee alleges that he or she is indigent and requests that an attorney be appointed to represent him or her, the parole board member or attorney hearings officer who will conduct the hearing shall determine whether the accused parolee is indigent. If the accused parolee is determined to be indigent, the parole board member or hearings officer shall cause the appointment of an attorney to represent the accused parolee at the fact-finding hearing. The cost of the appointed attorney shall be paid from the department's general operating budget.

(5) An accused parolee shall be given written notice of the charges against him or her and the time, place, and purpose of the fact-finding hearing. At the fact-finding hearing, the accused parolee may be represented by a retained attorney or an attorney appointed under subsection (4) and is entitled to the following rights:

(a) Full disclosure of the evidence against him or her.

(b) To testify and present relevant witnesses and documentary evidence.

(c) To confront and cross-examine adverse witnesses unless the person conducting the fact-finding hearing finds on the record that a witness is subject to risk of harm if his or her identity is revealed.

(d) To present other relevant evidence in mitigation of the charges.

(6) A fact-finding hearing may be postponed for cause beyond the 45-day time limit on the written request of the parolee, the parolee's attorney, or, if a postponement of the preliminary parole violation hearing required under section 39a has been granted beyond the 10-day time limit, by the parole board.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(7) The director or a deputy director designated by the director shall be notified in writing if the preliminary parole violation hearing is not conducted within the 10-day time limit, and the hearing shall be conducted as soon as possible. The director or a deputy director designated by the director shall be notified in writing if the fact-finding hearing is not conducted within the 45-day time limit, and the hearing shall be conducted as soon as possible. A parolee held in custody shall not be released pending disposition of either hearing.

(8) If the evidence presented is insufficient to support the allegation that a parole violation occurred, the parolee shall be reinstated to parole status.

(9) If the parole board member or hearings officer conducting the fact-finding hearing determines from a preponderance of the evidence that a parole violation has occurred, the parole board member or hearings officer shall present the relevant facts to the parole board and make a recommendation as to the disposition of the charges.

(10) If a preponderance of the evidence supports the allegation that a parole violation occurred, the parole board may revoke parole, and the parolee shall be provided with a written statement of the findings of fact and the reasons for the determination within 60 days after the paroled prisoner has been returned or is available for return to a state correctional facility.

(11) A parolee who is ordered to make restitution under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, or the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69, or to pay an assessment ordered under section 5 of 1989 PA 196, MCL 780.905, as a condition of parole may have his or her parole revoked by the parole board if the parolee fails to comply with the order and if the parolee has not made a good faith effort to comply with the order. In determining whether to revoke parole, the parole board shall consider the parolee's employment status, earning ability, and financial resources, the willfulness of the parolee's failure to comply with the order, and any other special circumstances that may have a bearing on the parolee's ability to comply with the order.

(12) As used in this section, "violent felony" means that term as defined in section 36.

History: Add. 1968, Act 192, Eff. Nov. 15, 1968;—Am. 1982, Act 314, Imd. Eff. Oct. 15, 1982;—Am. 1985, Act 85, Eff. July 10, 1985;—Am. 1993, Act 346, Eff. May 1, 1994;—Am. 2006, Act 315, Imd. Eff. July 20, 2006;—Am. 2006, Act 316, Imd. Eff. July 20, 2006;—Am. 2006, Act 532, Imd. Eff. Dec. 29, 2006.

Popular name: Department of Corrections Act

791.241 Order rescinding or reinstating parole.

Sec. 41. When the parole board has determined the matter it shall enter an order rescinding such parole, or reinstating the original order of parole or enter such other order as it may see fit.

History: 1953, Act 232, Eff. Oct. 2, 1953.

Popular name: Department of Corrections Act

791.242 Final order of discharge; certificate; period of parole.

Sec. 42. (1) If a paroled prisoner has faithfully performed all of the conditions and obligations of parole for the period of time fixed in the order of parole, and has obeyed all of the rules and regulations adopted by the parole board, the prisoner has served the full sentence required. The parole board shall enter a final order of discharge and issue the paroled prisoner a certificate of discharge.

(2) Parole shall not be granted for a period less than 2 years in a case of murder, actual forcible rape, robbery armed, kidnapping, extortion, or breaking and entering an occupied dwelling in the nighttime unless the maximum time remaining to be served on the sentence is less than 2 years.

(3) Parole shall only be granted for life for a prisoner sentenced under section 520b(2)(b) of the Michigan penal code, 1931 PA 328, MCL 750.520b.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1961, Act 92, Eff. Sept. 8, 1961;—Am. 2006, Act 170, Eff. Aug. 28, 2006.

Popular name: Department of Corrections Act

791.243 Applications for pardon; filing, information.

Sec. 43. All applications for pardons, reprieves and commutations shall be filed with the parole board upon forms provided therefor by the parole board, and shall contain such information, records and documents as the parole board may by rule require.

History: 1953, Act 232, Eff. Oct. 2, 1953.

Popular name: Department of Corrections Act

791.244 Parole board interview of prisoner serving sentence for first degree murder or sentence of imprisonment for life without parole; board duties upon own initiation or

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

receipt of application for reprieve, commutation, or pardon; exception; files as public record.

Sec. 44. (1) Subject to the constitutional authority of the governor to grant reprieves, commutations, and pardons, 1 member of the parole board shall interview a prisoner serving a sentence for murder in the first degree or a sentence of imprisonment for life without parole at the conclusion of 10 calendar years and thereafter as determined appropriate by the parole board, until such time as the prisoner is granted a reprieve, commutation, or pardon by the governor, or is deceased. The interview schedule prescribed in this subsection applies to all prisoners to whom this section or section 44a applies, regardless of when they were sentenced.

(2) Except in cases in which a commutation is requested based in part on a prisoner's medical condition and in which the governor has requested that the parole board expedite its review and hearing process under section 44a, upon its own initiation of, or upon receipt of an application for, a reprieve, commutation, or pardon, the parole board shall do all of the following, as applicable:

(a) Not more than 60 days after receipt of an application, conduct a review to determine whether the application for a reprieve, commutation, or pardon has merit.

(b) Deliver either the written documentation of the initiation or the original application with the parole board's determination regarding merit, to the governor and retain a copy of each in its file, pending an investigation and hearing.

(c) Within 10 days after initiation, or after determining that an application has merit, forward to the sentencing judge and to the prosecuting attorney of the county having original jurisdiction of the case, or their successors in office, a written notice of the filing of the application or initiation, together with copies of the application or initiation, any supporting affidavits, and a brief summary of the case. Not more than 30 days after receipt of notice of the filing of any application or initiation, the sentencing judge and the prosecuting attorney, or their successors in office, may file information at their disposal, together with any objections, in writing. If the sentencing judge and the prosecuting attorney, or their successors in office, do not respond after not more than 30 days, the parole board shall proceed on the application or initiation.

(d) If an application or initiation for commutation is based on physical or mental incapacity, direct the bureau of health care services to evaluate the condition of the prisoner and report on that condition. If the bureau of health care services determines that the prisoner is physically or mentally incapacitated, the bureau shall appoint a specialist in the appropriate field of medicine who is not employed by the department to evaluate the condition of the prisoner and to report on that condition. These reports are protected by the doctor-patient privilege of confidentiality, except that these reports shall be provided to the governor for his or her review.

(e) Within 270 days after initiation by the parole board or receipt of an application that the parole board has determined to have merit under subdivision (a), make a full investigation and determination on whether or not to proceed to a public hearing.

(f) Conduct a public hearing not later than 90 days after making a decision to proceed with consideration of a recommendation for the granting of a reprieve, commutation, or pardon. The public hearing must be held before a formal recommendation is transmitted to the governor. One member of the parole board who will be involved in the formal recommendation may conduct the hearing, and the public must be represented by the attorney general or a member of the attorney general's staff.

(g) Not fewer than 30 days before conducting the public hearing, provide written notice of the public hearing by mail to the attorney general, the sentencing trial judge, and the prosecuting attorney, or their successors in office, and each victim who requests notice under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

(h) Conduct the public hearing under the rules promulgated by the department. Except as otherwise provided in this subdivision, a person having information in connection with the pardon, commutation, or reprieve must be sworn as a witness. A person who is a victim must be given an opportunity to address and be questioned by the parole board at the hearing or to submit written testimony for the hearing. In hearing testimony, the parole board shall give liberal construction to any technical rules of evidence.

(i) Transmit its formal recommendation to the governor.

(j) Make all data in its files available to the governor if the parole board recommends the granting of a reprieve, commutation, or pardon.

(3) Except for medical records protected by the doctor-patient privilege of confidentiality, the files of the parole board in cases under this section are matters of public record.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1982, Act 314, Imd. Eff. Oct. 15, 1982;—Am. 1992, Act 181, Imd. Eff. Sept. 22, 1992;—Am. 1999, Act 191, Eff. Mar. 10, 2000;—Am. 2017, Act 8, Eff. June 29, 2017.

Popular name: Department of Corrections Act

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Administrative rules: R 791.1101 et seq. of the Michigan Administrative Code.

791.244a Reprieve, commutation, or pardon; request from governor to expedite review and hearing process; basis; duties of parole board; files as public record.

Sec. 44a. (1) Upon a request from the governor under this section to expedite the review and hearing process for a reprieve, commutation, or pardon based in part on a prisoner's medical condition, the parole board shall do all of the following, as applicable:

(a) Not more than 10 days after receipt of an application, conduct a review to determine whether the application for a reprieve, commutation, or pardon has merit.

(b) Deliver either the written documentation of the initiation or the original application with the parole board's determination regarding merit to the governor and retain a copy of each in its file, pending an investigation and hearing.

(c) Within 5 days after initiation, or after determining that an application has merit, forward to the sentencing judge and to the prosecuting attorney of the county having original jurisdiction of the case, or their successors in office, a written notice of the filing of the application or initiation, together with copies of the application or initiation, any supporting affidavits, and a brief summary of the case. Not more than 30 days after receipt of notice of the filing of any application or initiation, the sentencing judge and the prosecuting attorney, or their successors in office, may file information at their disposal, together with any objections, in writing. If the sentencing judge and the prosecuting attorney, or their successors in office, do not respond after not more than 30 days, the parole board shall proceed on the application or initiation.

(d) Direct the bureau of health care services to evaluate the physical and mental condition of the prisoner and report on that condition. If the bureau of health care services determines that the prisoner is physically or mentally incapacitated, the bureau shall appoint a specialist in the appropriate field of medicine who is not employed by the department to evaluate the condition of the prisoner and to report on that condition. These reports are protected by the doctor-patient privilege of confidentiality, except that they shall be provided to the governor for his or her review.

(e) Not more than 90 days after initiation by the parole board or receipt of an application that the parole board has determined to have merit under subdivision (a), make a full investigation and determination on whether or not to proceed to a public hearing.

(f) Conduct a public hearing not later than 90 days after making a decision to proceed with consideration of a recommendation for the granting of a reprieve, commutation, or pardon. The public hearing shall be held before a formal recommendation is transmitted to the governor. One member of the parole board who will be involved in the formal recommendation may conduct the hearing, and the public must be represented by the attorney general or a member of the attorney general's staff.

(g) Not fewer than 30 days before conducting the public hearing, provide written notice of the public hearing by mail to the attorney general, the sentencing judge, and the prosecuting attorney, or their successors in office, and each victim who requests notice under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

(h) Conduct the public hearing under the rules promulgated by the department. Except as otherwise provided in this subdivision, any person having information in connection with the pardon, commutation, or reprieve must be sworn as a witness. A person who is a victim must be given an opportunity to address and be questioned by the parole board at the hearing or to submit written testimony for the hearing. In hearing testimony, the parole board shall give liberal construction to any rules of evidence.

(i) Transmit its formal recommendation to the governor.

(j) Make all data in its files available to the governor if the parole board recommends the granting of a reprieve, commutation, or pardon.

(2) Except for medical records protected by the doctor-patient privilege of confidentiality, the files of the parole board in cases under this section are matters of public record.

History: Add. 2017, Act 8, Eff. June 29, 2017.

Popular name: Department of Corrections Act

791.245 Hearing; administering oath to witness.

Sec. 45. In the conduct of any hearing or investigation as herein provided any member of the parole board may administer the oath to any witness.

History: 1953, Act 232, Eff. Oct. 2, 1953.

Popular name: Department of Corrections Act

791.246 Decisions and recommendations of parole board; majority vote required.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Sec. 46. All decisions and recommendations of the parole board required by this act shall be by a majority vote of the parole board or a parole board panel created pursuant to section 6(2).

History: Add. 1982, Act 314, Imd. Eff. Oct. 15, 1982.

Popular name: Department of Corrections Act

CHAPTER IIIA

791.251 Hearings division; creation; appointment and duties of hearing administrator; duties of hearings division; supervision and qualifications of hearing officer.

Sec. 51. (1) There is created within the department a hearings division. The division is under the direction and supervision of the hearings administrator who is appointed by the director of the department.

(2) Except as otherwise provided in this section, the hearings division is responsible for each prisoner hearing the department conducts that may result in the loss by a prisoner of a right, including but not limited to any 1 or more of the following matters:

(a) An infraction of a prison rule that may result in punitive segregation, loss of disciplinary credits, or the loss of good time.

(b) A security classification that may result in the placement of a prisoner in administrative segregation.

(c) A special designation that permanently excludes, by department policy or rule, a person under the jurisdiction of the department from community placement.

(d) Visitor restrictions.

(e) High or very high assaultive risk classifications.

(3) Except as otherwise provided in this section, the hearings division is responsible for each prisoner hearing that may result in the accumulation of disciplinary time.

(4) The hearings division is not responsible for a prisoner hearing that is conducted for prisoners transferred under section 11a to an institution of another state pursuant to the interstate corrections compact.

(5) The hearings division is not responsible for a prisoner hearing that is conducted as a result of a minor misconduct charge that would not cause a loss of good time or disciplinary credits, or result in placement in punitive segregation.

(6) Each hearings officer of the department is under the direction and supervision of the hearings division. Each hearings officer hired by the department after October 1, 1979, shall be an attorney.

History: Add. 1979, Act 140, Imd. Eff. Nov. 7, 1979;—Am. 1983, Act 155, Eff. Oct. 1, 1983;—Am. 1994, Act 217, Eff. Dec. 15, 1998;—Am. 1998, Act 204, Imd. Eff. June 30, 1998;—Am. 1998, Act 269, Imd. Eff. July 17, 1998.

Popular name: Department of Corrections Act

791.252 Procedures applicable to prisoner hearing.

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

(a) The parties shall be given an opportunity for an evidentiary hearing without undue delay.

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

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

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

(e) A prisoner may not cross-examine a witness, but may submit rebuttal evidence. A prisoner may also submit written questions to the hearings officer to be asked of a witness or witnesses. The hearings officer may present these questions to and receive answers from the witness or witnesses. The questions presented and the evidence received in response to these questions shall become a part of the record. A hearings officer may refuse to present the prisoner's questions to the witness or witnesses. If the hearings officer does not present the questions to the witness or witnesses, the reason for the decision not to present the questions shall be entered into the record.

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

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

This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(h) Evidence, including records and documents in possession of the department of which the hearings officer wishes to avail himself or herself, shall be offered and made a part of the record. A hearings officer may deny access to the evidence to a party if the hearings officer determines that access may be dangerous to a witness or disruptive of normal prison operations. The reason for the denial shall be entered into the record.

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

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

(k) A final decision or order of a hearings officer in a hearing shall be made, within a reasonable period, in writing or stated in the record and shall include findings of fact, and shall state any sanction to be imposed against a prisoner as a direct result of a hearing conducted under this chapter. The final decision shall be made on the basis of a preponderance of the evidence presented. Findings of fact shall be based exclusively on the evidence and on matters officially noticed. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting them. A decision or order shall not be made except upon consideration of the record as a whole or a portion of the record as may be cited by a party to the proceeding and as supported by and pursuant to competent, material, and substantial evidence. A copy of the decision or order shall be delivered or mailed immediately to the prisoner. The final disposition shall be posted for the information of the reporting officer.

History: Add. 1979, Act 140, Eff. Feb. 1, 1980.

Popular name: Department of Corrections Act

791.253 Official record of hearing; preparation; contents; exclusion of certain evidence.

Sec. 53. (1) The department shall prepare an official record of a hearing which shall include:

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

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

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

(2) The official record shall not include evidence, access to which a hearings officer has determined would be disruptive of normal prison operations. However, on an appeal from a final decision made to a court of this state, that evidence shall be included in the official record.

History: Add. 1979, Act 140, Eff. Feb. 1, 1980.

Popular name: Department of Corrections Act

791.254 Rehearing; order; request; conduct; evidence; amending or vacating decision or order; rules.

Sec. 54. (1) The department shall provide for a rehearing of a matter that was subject to a hearing, pursuant to this section. A rehearing may be ordered by the hearings administrator after a review of the record of the hearing. A rehearing may be held upon the request of a party or upon the department's own motion.

(2) A rehearing shall be ordered if any of the following occurs:

(a) The record of testimony made at the hearing is inadequate for purposes of judicial review.

(b) The hearing was not conducted pursuant to applicable statutes or policies and rules of the department and the departure from the statute, rule, or policy resulted in material prejudice to either party.

(c) The prisoner's due process rights were violated.

(d) The decision of the hearings officer is not supported by competent, material, and substantial evidence on the record as a whole.

(e) It is determined, based on fact, that the hearings officer conducting the hearing was personally biased in favor of 1 of the parties.

(3) A request for a rehearing shall be filed within 30 days after the final decision or order is issued after the initial hearing. A rehearing shall be conducted in the same manner as an original hearing. The evidence received at the rehearing shall be included in the record for department reconsideration and for judicial review. A decision or order may be amended or vacated after the rehearing.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(4) Pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.315 of the Michigan Compiled Laws, the department shall promulgate the rules necessary to implement this chapter.

History: Add. 1979, Act 140, Eff. Feb. 1, 1980;—Am. 1983, Act 155, Eff. Oct. 1, 1983.

Popular name: Department of Corrections Act

791.255 Motion or application for rehearing; exhaustion of administrative remedies; application for direct review in circuit court; transmitting copy of record to court; proof of procedural irregularity; scope of review; action by court.

Sec. 55. (1) A prisoner aggrieved by a final decision or order of a hearings officer shall file a motion or application for rehearing in order to exhaust his or her administrative remedies before seeking judicial review of the final decision or order.

(2) Within 60 days after the date of delivery or mailing of notice of the decision on the motion or application for the rehearing, if the motion or application is denied or within 60 days after the decision of the department or hearing officer on the rehearing, a prisoner aggrieved by a final decision or order may file an application for direct review in the circuit court in the county where the petitioner resides or in the circuit court for Ingham county.

(3) Within 60 days after the application is filed and the department is served, the department shall transmit to the court a certified copy of the entire record of the proceedings. In the case of alleged irregularity in procedure which is not shown on the record, proof may be submitted to the court.

(4) The review shall be confined to the record and any supplemental proofs submitted pursuant to subsection (3). The scope of review shall be limited to whether the department's action is authorized by law or rule and whether the decision or order is supported by competent, material and substantial evidence on the whole record.

(5) The court may affirm, reverse or modify the decision or order or remand the case for further proceedings.

History: Add. 1979, Act 140, Eff. Feb. 1, 1980;—Am. 1983, Act 155, Eff. Oct. 1, 1983.

Popular name: Department of Corrections Act

791.256 Prisoners confined in another state; right to hearings.

Sec. 56. (1) A prisoner sentenced under the laws of this state who is imprisoned in another state pursuant to the interstate corrections compact is entitled to hearings pursuant to subsection (6) of article IV of the interstate corrections compact.

(2) A prisoner is not entitled to a hearing prior to his or her transfer to an institution of another state pursuant to the interstate corrections compact.

(3) This section shall not impair or abrogate the rights of crime victims, including but not limited to those rights provided under the crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

History: Add. 1994, Act 93, Imd. Eff. Apr. 13, 1994;—Am. 1998, Act 204, Imd. Eff. June 30, 1998.

Popular name: Department of Corrections Act

CHAPTER IIIB

791.258 Chapter short title.

Sec. 58. This chapter shall be known and may be cited as the "parole sanction certainty act".

History: Add. 2017, Act 1, Eff. June 29, 2017.

Popular name: Department of Corrections Act

791.258a Definitions.

Sec. 58a. As used in this chapter:

(a) "Confinement sanction" means a violation sanction resulting in confinement in a departmental facility or local county jail for not more than 60 days.

(b) "Controlled substance" means that term as defined under section 7104 of the public health code, 1978 PA 368, MCL 333.7104.

(c) "Evidenced-based practices" means a progressive, organizational use of direct and current scientific evidence to guide and inform efficient and effective correctional services that have been shown to reduce recidivism.

(d) "Graduated sanction" means any of a wide range of offender accountability measures and programs, including, but not limited to, electronic supervision tools, drug and alcohol testing and monitoring, day or

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

evening reporting centers, community service or work crew, rehabilitative interventions such as substance abuse or mental health treatment, reporting requirements, residential treatment, counseling, confinement, and incarceration.

(e) "Nonconfinement sanction" means a violation sanction that does not result in imprisonment in the custody of the department or the county jail, including, but not limited to, any of the following:

(*i*) Extension of the period of supervision with the time period provided by law.

(*ii*) Additional reporting and compliance requirements.

(*iii*) Testing for the use of controlled substances or alcohol.

(*iv*) Counseling or treatment for behavioral health problems, including substance abuse.

(f) "Parole sanction certainty program" means the program created under this chapter that utilizes a set of established graduated sanctions to supervise eligible offenders that have been placed on parole sanction certainty supervision.

(g) "Parole sanction certainty supervision" means being placed on parole subject to conditions and sanctions as set forth in the parole sanction certainty program created under this chapter.

(h) "Supervised individual" means an individual who is placed on parole subject to parole sanction certainty supervision under this chapter.

(i) "Supervising agent" means the parole agent assigned to directly supervise an individual on parole sanction certainty supervision.

(j) "Validated risk and needs assessment" means a tool or tools adopted by the department that have been validated as to the effectiveness of the tool in determining a supervised individual's likely risk of reoffense, violent reoffense, or both, as well as the offender's criminogenic needs.

History: Add. 2017, Act 1, Eff. June 29, 2017.

Popular name: Department of Corrections Act

791.258b Parole sanction certainty program; establishment; adoption of system of graduated sanctions; placement of offenders; determination; implementation of program; consultation with local law enforcement.

Sec. 58b. (1) The parole sanction certainty program is established within the department. By January 1, 2018, the department shall adopt a system of graduated sanctions for violations of conditions of parole for offenders supervised under the parole sanction certainty program. The graduated sanctions adopted under this section must utilize evidence-based practices that have been demonstrated to reduce recidivism and increase compliance with the conditions of parole based on the identified risk and needs of the supervised individual as determined by a validated risk and needs assessment. To the extent possible, the system of graduated sanctions must be uniform throughout the state for all parolees subject to parole sanction certainty supervision.

(2) Subject to subsection (3), the department shall, in consultation with the parole board, determine which offenders shall be placed in the community on parole under the parole sanction certainty program.

(3) The department shall implement the parole sanction certainty program created in subsection (1) in at least the 5 counties in this state in which the greatest number of individuals convicted of criminal violations are sentenced to incarceration under the jurisdiction of the department, as determined by the department's annual statistical report. The department may implement the parole sanction certainty program in additional counties in this state.

(4) The department shall consult with and seek recommendations from local law enforcement agencies in the counties where the parole sanction certainty program is implemented, including the sheriff's departments, circuit courts, county prosecutor's offices, and community corrections programs in developing a plan for implementing the parole sanction certainty program in the county.

History: Add. 2017, Act 1, Eff. June 29, 2017.

Popular name: Department of Corrections Act

791.258c Common types of supervision violations; list of presumptive graduated sanctions; factors; process to review and approve or reject; confinement sanction.

Sec. 58c. (1) Subject to subsection (3), the parole sanction certainty program described in section 58b must set forth a list of presumptive graduated sanctions for the most common types of supervision violations, including, but not limited to, failing to report, failing to participate in a required program or service, failing to complete community service, failing to refrain from the use of alcohol or a controlled substance, failing to pay fines, fees, or victim restitution, violating a protective or no-contact order, refusing to complete a drug test, possessing a firearm, or being involved in felony-related activity. The system of graduated sanctions must take into account factors such as the severity of the violation, the impact of the violation on the safety or

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

well-being of the crime victim, if applicable, the supervised individual's previous criminal record, the number and severity of any previous supervision violations, the supervised individual's assessed risk level, the supervised individual's needs as established by a validated risk and needs assessment, and the extent to which graduated sanctions were imposed for previous violations. The system must also define positive reinforcements that supervised individuals will receive for complying with their conditions of supervision.

(2) Subject to subsection (3), the department shall establish a process to review and to approve or reject, before imposition, graduated sanctions that deviate from those that are otherwise prescribed under subsection (1).

(3) A supervised individual who violates the terms of his or her parole sanction certainty supervision, but whose parole will not be revoked under section 40a as a result of the violation, may be subject to a confinement sanction and be confined in a correctional or detention facility for not more than 60 days. After a supervised individual completes his or her confinement under this subsection, he or she may be returned to parole sanction certainty supervision under the same terms of supervision under which he or she was previously supervised, or under new parole sanction certainty supervision terms at the discretion of the department.

(4) Nothing in this chapter prevents the arrest of a parolee under section 39 or the revocation of parole under section 40a.

History: Add. 2017, Act 1, Eff. June 29, 2017.

Popular name: Department of Corrections Act

791.258d Parole sanction certainty supervision; violation of condition.

Sec. 58d. A supervised individual is subject to 1 of the following for violating any condition of his or her parole sanction certainty supervision:

(a) A nonconfinement sanction.

(b) A confinement sanction.

(c) Parole revocation proceedings under section 40a and possible incarceration for failure to comply with a condition of supervision.

History: Add. 2017, Act 1, Eff. June 29, 2017.

Popular name: Department of Corrections Act

791.258e Parole sanction certainty supervision; conditions; informing supervised individual during initial orientation; written agreement.

Sec. 58e. During the initial orientation with his or her supervising agent, a supervised individual must be informed in person of the conditions of his or her parole sanction certainty supervision. The supervised individual shall also sign a written agreement to abide by those conditions or to be immediately subject to graduated sanctions or to parole revocation under section 40a, whichever is determined by the department to be appropriate.

History: Add. 2017, Act 1, Eff. June 29, 2017.

Popular name: Department of Corrections Act

791.258f Parole sanction certainty supervision; violation of conditions; powers of department; notice of intended graduated sanction; issuance by supervising agent; failure of supervised individual to comply; confinement; completion of conditions; modification; duties of supervising agent.

Sec. 58f. (1) The department may do either of the following if an individual violates a condition of parole sanction certainty supervision:

(a) Modify the conditions of parole sanction certainty supervision for the limited purpose of imposing graduated sanctions.

(b) Place the individual in a state or local correctional or detention facility or residential center for a period specified in the list of presumptive graduated sanctions under section 58c(1) or as otherwise provided under section 58c(2) and (3). If an individual is to be placed in a local correctional or detention facility, he or she must only be placed in a facility that agrees to take the individual and with which the department has an existing reimbursement agreement.

(2) A supervising agent intending to modify the conditions of parole sanction certainty supervision by imposing a graduated sanction shall issue to the supervised individual a notice of the intended graduated sanction. The notice must inform the supervised individual of each violation alleged, the date of each violation, and the graduated sanction to be imposed.

(3) The imposition of a sanction must comport with the system of graduated sanctions adopted by the

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

department under sections 58b and 58c. The failure of the supervised individual to comply with a graduated sanction constitutes a violation of parole. Graduated sanctions specified and imposed are immediately effective.

(4) A graduated sanction that involves confinement in a correctional or detention facility is subject to section 58c(3). If the supervised individual is employed, the department shall, to the extent feasible, impose the confinement sanction for weekend days or other days or times when the supervised individual is not working.

(5) If an individual successfully completes conditions imposed under a graduated sanction, the department shall not revoke the assigned term of parole sanction certainty supervision or impose additional graduated sanctions for the same violation.

(6) If a supervising agent modifies the conditions of parole sanction certainty supervision by imposing a graduated sanction, the supervising agent shall do all of the following:

(a) Deliver a copy of the modified conditions to the supervised individual.

(b) File a copy of the modified conditions with the department.

(c) Note the date of delivery of the copy in the supervised individual's file.

History: Add. 2017, Act 1, Eff. June 29, 2017.

Popular name: Department of Corrections Act

791.258g Use of confinement sanctions; review and report by department.

Sec. 58g. (1) The department shall review the use of confinement sanctions by supervising agents in the counties where the parole sanction certainty program is implemented on a biannual basis to assess any disparities that may exist among the supervising agents' use of confinement sanctions and evaluate the effectiveness of the sanction as measured by the supervised individuals' subsequent conduct.

(2) The department shall report all of the following on a biannual basis to the house and senate committees concerned with corrections issues:

(a) The number of supervised individuals whom the department, in consultation with the parole board, has referred for supervision under the parole sanction certainty program.

(b) The number of supervised individuals currently being supervised under the parole sanction certainty program.

History: Add. 2017, Act 1, Eff. June 29, 2017.

Popular name: Department of Corrections Act

CAUTION! This document is from the archive and may contain outdated information.

CHAPTER IV
BUREAU OF PENAL INSTITUTIONS.

791.261 Bureau of prisons; establishment, direction and supervision.

Sec. 61. There is hereby established within the department, a bureau of prisons. This bureau shall be under the direction and supervision of the assistant director in charge of the bureau of penal institutions.

History: 1953, Act 232, Eff. Oct. 2, 1953.

Popular name: Department of Corrections Act

791.262 Definitions; administration of state correctional facilities; supervision and inspection of jails and lockups; rules and standards; variance; advice and services; enforcement of orders; residence of sheriff as part of county jail; visitation and inspection by member of commission or designee; records; forms; violation as misdemeanor.

Sec. 62. (1) As used in this section:

(a) "Holding cell" means a cell or room in a facility of a local unit of government that is used for the detention of 1 or more persons awaiting processing, booking, court appearances, transportation to a jail or lockup, or discharge for not to exceed 12 hours.

(b) "Holding center" means a facility that is operated by a local unit of government for the detention of persons awaiting processing, booking, court appearances, transportation to a jail or lockup, or discharge; for not to exceed 24 hours.

(c) "Jail" means a facility that is operated by a local unit of government for the detention of persons charged with, or convicted of, criminal offenses or ordinance violations; persons found guilty of civil or criminal contempt; or a facility which houses prisoners pursuant to an agreement authorized under Act No. 164 of the Public Acts of 1861, being sections 802.1 to 802.21 of the Michigan Compiled Laws, for not more than 1 year.

(d) "Local unit of government" means any county, city, village, township, charter township, community

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

college, college, or university.

(e) "Lockup" means a facility that is operated by a local unit of government for the detention of persons awaiting processing, booking, court appearances, or transportation to a jail, for not to exceed 72 hours.

(f) "State correctional facility" means a facility or institution maintained and operated by the department.

(2) State correctional facilities shall be administered by the bureau of prisons.

(3) The department shall supervise and inspect jails and lockups that are under the jurisdiction of the county sheriff to obtain facts concerning the proper management of the jails and lockups and their usefulness. The department shall promulgate rules and standards promoting the proper, efficient, and humane administration of jails and lockups that are under the jurisdiction of the county sheriff pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

(4) The department may grant a variance to the rules and standards promulgated under subsection (3).

(5) Except as provided in subsection (3), the department shall not supervise and inspect, or promulgate rules and standards for the administration of, holding cells, holding centers, or lockups. However, the department shall provide advice and services concerning the efficient and humane administration of holding cells, holding centers, and lockups at the request of a local unit of government.

(6) The commission may enforce any reasonable order with respect to jails and lockups subject to supervision and inspection pursuant to subsection (3) through mandamus or injunction in the circuit court of the county where the jail is located through proceedings instituted by the attorney general on behalf of the commission.

(7) The county board of commissioners may determine whether the sheriff's residence is to be part of the county jail.

(8) The sheriff or the administrator of a jail or lockup, subject to supervision and inspection under subsection (3), shall admit to the jail or lockup any member of the commission or an authorized designee of the commission, for the purpose of visitation and inspection.

(9) The sheriff or the administrator of a jail or lockup subject to supervision and inspection under subsection (3) shall keep records of a type and in a manner reasonably prescribed by the commission. The commission shall provide the forms required for keeping the records.

(10) Any person who violates subsections (8) or (9) shall be guilty of a misdemeanor.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1964, Act 111, Eff. Aug. 28, 1964;—Am. 1984, Act 102, Imd. Eff. May 8, 1984;—Am. 1987, Act 251, Eff. Jan. 1, 1988.

Popular name: Department of Corrections Act

Administrative rules: R 791.701 et seq. of the Michigan Administrative Code.

CAUTION! This document is from an archive and may contain outdated information.

791.262a Local lockup advisory board; creation; appointment, term, and expenses of members; first meeting; election of chairperson; quorum; model policy; review.

Sec. 62a. (1) A local lockup advisory board is created within the bureau of prisons. The board shall consist of 7 members appointed for a period of 4 years. The director of each of the following shall appoint 1 member:

(a) The department of state police.

(b) The Michigan association of chiefs of police.

(c) The Michigan municipal league.

(d) The Michigan townships association.

(e) The Michigan judges' association.

(f) The Michigan district judges' association.

(g) The Michigan sheriffs' association.

(2) The members appointed under subsection (1) shall serve without compensation but shall be entitled to actual and necessary expenses incurred in the performance of official duties.

(3) The first meeting of the advisory board shall be convened within 60 days after the effective date of this section, at which time the members appointed under subsection (1) shall elect a chairperson. A quorum shall consist of 4 members.

(4) The local lockup advisory board shall develop and promote a model policy for use in the administration of local lockups, holding cells, and holding centers. The model policy shall be developed within 6 months after the date of the first meeting. The advisory board shall convene annually to review the model policy.

History: Add. 1984, Act 102, Imd. Eff. May 8, 1984.

Popular name: Department of Corrections Act

791.262b Housing inmates in county jail cell designed and constructed for single occupancy; conditions; classification system; doors; visual supervision; indemnification

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

for expense or damages.

Sec. 62b. (1) The rules and standards promulgated under section 62(3) do not prohibit the housing of 2 inmates in a county jail cell that is designed and constructed for single occupancy and that meets either of the following conditions:

(a) The cell is at least 65 square feet in area and provides access to a day area which is available for use by the inmates other than those inmates being disciplined. The day area shall contain an average of at least 20 additional square feet of space per inmate.

(b) The cell is at least 55 square feet in area and both of the 2 inmates housed in the cell participate in a day parole program for not less than 32 hours per week.

(2) For purposes of housing inmates as provided for under this section, the sheriff of the county shall develop and implement a classification system classifying the county jail population according to all of the following:

(a) Behavior characteristics.

(b) Similar physical characteristics.

(c) Age.

(d) Type of crime committed and criminal history.

(e) Gender.

(3) The classification system under subsection (2) shall be submitted to and approved by the department. Any classification system in effect on December 31, 1987 shall continue in effect until changed as provided in this subsection.

(4) Cells in which 2 inmates are housed shall have doors which allow visual supervision, and inmates shall be under visual supervision at least every hour.

(5) If the state incurs any expense or is liable for damages on any judgment for an action brought as the result of a county housing 2 inmates in a cell as provided in this section, the county in which the action arose shall fully indemnify the state for the expense or damages.

History: Add. 1984, Act 145, Imd. Eff. June 25, 1984;—Am. 1987, Act 252, Eff. Jan. 1, 1988;—Am. 1988, Act 492, Imd. Eff. Dec. 29, 1988;—Am. 2000, Act 211, Imd. Eff. June 27, 2000;—Am. 2011, Act 211, Imd. Eff. Nov. 8, 2011.

Popular name: Department of Corrections Act

Administrative rules: R 791.501 et seq. of the Michigan Administrative Code.

CAUTION! This document is from an archive and may contain outdated information.

791.262c Housing inmates in county jail cell; conditions; classification system; doors; visual supervision.

Sec. 62c. (1) The rules and standards promulgated under section 62(3) shall not prohibit the housing of 2 or more inmates in a county jail cell which is designed and constructed for housing 2 or more inmates, and which meets all of the following conditions:

(a) The basic cell has at least 25 square feet in area per inmate or, if the inmates are confined in the cell for 10 or more hours per day, at least 35 square feet in area per inmate. This subdivision only applies to cells constructed after January 1, 1988.

(b) The cell provides access to a day area that is available for use by other than those being disciplined. The day area shall contain at least 20 additional square feet of space per inmate. This subdivision only applies to cells constructed after January 1, 1988.

(c) The cell complies with other rules and standards for multiple occupancy housing in jails, as promulgated under section 62(3).

(2) For purposes of housing inmates as provided for under this section, the sheriff of the county shall develop and implement a classification system classifying the county jail population according to all of the following:

(a) Behavior characteristics.

(b) Similar physical characteristics.

(c) Age.

(d) Type of crime committed and criminal history.

(e) Gender.

(3) The classification system under subsection (2) shall be submitted to and approved by the department.

(4) Cells in which 2 or more inmates are housed shall have doors which allow visual supervision, and inmates shall be under visual supervision at least every hour.

History: Add. 1987, Act 251, Eff. Jan. 1, 1988;—Am. 1988, Act 293, Imd. Eff. Aug. 4, 1988;—Am. 2011, Act 211, Imd. Eff. Nov. 8, 2011.

Popular name: Department of Corrections Act

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Administrative rules: R 791.501 et seq. of the Michigan Administrative Code.

791.262d Prisoners who are 18 to 22 years of age; development of rehabilitation plans; programming; report; "correctional facility" defined.

Sec. 62d. (1) The department shall develop rehabilitation plans for prisoners in the custody of the department who are approximately 18 to 22 years of age that specifically take the prisoner's age into consideration.

(2) The department shall provide, to the extent it is able to do so, programming designed for youth rehabilitation for prisoners in the custody of the department who are approximately 18 to 22 years of age. The department shall consult with the administrators of the family divisions of the circuit courts in this state and seek recommendations regarding the selection of programming designed for youth rehabilitation.

(3) The programming under subsection (2) may include, but not be limited to, both of the following:

(a) Mentoring programs provided by individuals with no misdemeanor or felony convictions.

(b) Career skills evaluation and career counseling.

(4) The department shall submit an annual report to the senate and house committees responsible for legislation concerning corrections issues detailing all of the following regarding prisoners in the custody of the department who are approximately 18 to 22 years of age:

(a) The number of these prisoners who are in the custody of the department, and the security classification at which each of these prisoners is housed.

(b) The number of these prisoners housed at each correctional facility in this state.

(c) The number, if any, of these prisoners who have been moved from 1 correctional facility to another in a manner that interrupted the prisoner's programming.

(d) The number of these prisoners who have completed programming, and if so, what specific programming was completed by the prisoners.

(5) As used in this section, "correctional facility" means a facility operated by the department, or by a private entity under contract with the department, that houses prisoners under the jurisdiction of the department.

History: Add. 2017, Act 16, Eff. June 29, 2017.

Popular name: Department of Corrections Act

791.263 Wardens; appointment; personnel; "correctional facility" defined.

Sec. 63. (1) The wardens of the correctional facilities of this state shall be appointed by the director of corrections and shall be within the state civil service. The assistant director in charge of the bureau of correctional facilities shall, subject to the approval of the director, appoint personnel within the bureau as may be necessary. Members of the staff and employees of each correctional facility shall be appointed by the warden subject to the approval of the director.

(2) As used in this section, "correctional facility" does not include a correctional facility described in section 20g or 20j if that facility is operated by a private contractor.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1998, Act 512, Imd. Eff. Jan. 8, 1999;—Am. 2012, Act 599, Eff. Mar. 28, 2013.

Popular name: Department of Corrections Act

791.263a Compensation of correctional or youth correctional facility employees injured by inmate assault or injured during riot; exception; "correctional facility" defined.

Sec. 63a. (1) A person employed by the department of corrections in a correctional facility who is injured as a result of an assault by a prisoner housed in the correctional facility or injured during a riot shall receive his or her full wages by the department of corrections until worker's compensation benefits begin and then shall receive in addition to worker's compensation benefits a supplement from the department which together with the worker's compensation benefits shall equal but not exceed the weekly net wage of the employee at the time of the injury. This supplement shall only apply while the person is on the department's payroll and is receiving worker's compensation benefits. Fringe benefits normally received by an employee shall be in effect during the time the employee receives the supplement provided by this section from the department.

(2) Subsection (1) also applies to a person who is employed by the department of corrections who, while performing his or her duties in a correctional facility described in section 20g or 20j, is injured as a result of an assault by a prisoner housed in that correctional facility or is injured during a riot in that correctional facility. However, subsection (1) does not apply to any person employed by, or retained under contract by, a private contractor that operates a correctional facility described in section 20g or 20j.

(3) For purposes of this section, "correctional facility" means a facility that houses prisoners committed to the jurisdiction of the department, including a community corrections center.

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

History: Add. 1975, Act 293, Imd. Eff. Dec. 10, 1975;—Am. 1998, Act 512, Imd. Eff. Jan. 8, 1999;—Am. 2012, Act 599, Eff. Mar. 28, 2013.

Popular name: Department of Corrections Act

791.264 Classification of prisoners; classification committee; information; filing; investigation; computation of sentence; recomputation based on amended judgment.

Sec. 64. (1) The assistant director in charge of the bureau of correctional facilities shall classify the prisoners in correctional facilities. The assistant director shall appoint a classification committee from the staff of each correctional facility, which committee shall perform services in a manner as the assistant director in charge of the bureau of correctional facilities requires.

(2) Each classification committee shall obtain and file complete information with regard to each prisoner when the prisoner is received in a correctional facility. The clerk of the court and all probation officers and other officials shall send information in their possession or under their control to each classification committee when requested to do so, in the manner as they are directed. When all such existing available records have been assembled, each classification committee shall determine whether any further investigation is necessary, and, if so, shall make that investigation. The information shall be filed with the parole board so as to be readily available when the parole of the prisoner is to be considered.

(3) The length of a prisoner's sentence shall be computed by the record office of the correctional facility, for use by the classification committee, based upon the certified copy of the judgment of sentence delivered with the prisoner. Except as provided in subsection (4), if the judgment of sentence does not specify whether the sentence shall run consecutively to or concurrently with any other sentence that the prisoner is serving, the sentence shall be computed as if it is to be served concurrently.

(4) If the conviction is for a violation of section 193, 195(2), 197(2), 227b, or 349a of the Michigan penal code, 1931 PA 328, MCL 750.193, 750.195, 750.197, 750.227b, and 750.349a, the sentence shall be computed as if it is to be served consecutively, unless the judgment of sentence specifies that the sentence shall run concurrently.

(5) If a sentence that did not specify whether it was to be served concurrently or consecutively is computed under subsection (3) or (4), or if the conviction is for a violation of section 193, 195(2), 197(2), 227b, or 349a of the Michigan penal code, 1931 PA 328, MCL 750.193, 750.195, 750.197, 750.227b, and 750.349a, and the judgment of sentence specifies that the sentence shall run concurrently, the department shall notify the sentencing judge, the prosecuting attorney, and the affected prisoner of the computation not later than 7 days after the sentence is computed.

(6) If, at any time after receiving the original judgment of sentence, the department receives an amended judgment of sentence specifying that the sentence should be computed in a different manner, the sentence shall be recomputed accordingly.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 2000, Act 221, Eff. Oct. 1, 2000.

Popular name: Department of Corrections Act

Administrative rules: R 791.1101 et seq. of the Michigan Administrative Code.

791.265 Transfer or re-transfer of prisoner; confinement in secure correctional facility; "offender" defined; transfer of offenders to country of citizenship; notification to judge and prosecutor; objections; "secure correctional facility" defined.

Sec. 65. (1) Under rules promulgated by the director of the department, the assistant director in charge of the bureau of correctional facilities, except as otherwise provided in this section, may cause the transfer or re-transfer of a prisoner from a correctional facility to which he or she was committed to any other correctional facility, or temporarily to a state institution for medical or surgical treatment. In effecting a transfer, the assistant director of the bureau of correctional facilities may utilize the services of an executive or employee within the department and of a law enforcement officer of the state.

(2) A prisoner who is subject to disciplinary time and is committed to the jurisdiction of the department must be confined in a secure correctional facility for the duration of his or her minimum sentence, except for periods when the prisoner is away from the secure correctional facility while being supervised by an employee of the department or by an employee of a private contractor that operates a facility or institution that houses prisoners under the jurisdiction of the department for 1 of the following purposes:

(a) Visiting a critically ill relative.

(b) Attending the funeral of a relative.

(c) Obtaining medical services not otherwise available at the secure correctional facility.

(d) Participating in a work detail.

(3) As used in this section, "offender" means a citizen of the United States or a foreign country who has

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

been convicted of a crime and been given a sentence in a country other than the country of which he or she is a citizen. If a treaty is in effect between the United States and a foreign country, which provides for the transfer of offenders from the jurisdiction of 1 of the countries to the jurisdiction of the country of which the offender is a citizen, and if the offender requests the transfer, the governor of this state or a person designated by the governor may give the approval of this state to a transfer of an offender, if the conditions of the treaty are satisfied.

(4) Not less than 45 days before approval of a transfer under subsection (3) from this state to another country, the governor, or the governor's designee, shall notify the sentencing judge and the prosecuting attorney of the county having original jurisdiction, or their successors in office, of the request for transfer. The notification must indicate any name changes of the offender subsequent to sentencing. Within 20 days after receiving notification under this subsection, the judge or prosecutor may send to the governor, or the governor's designee, information about the criminal action against the offender or objections to the transfer. Objections to the transfer must not preclude approval of the transfer.

(5) As used in this section, "secure correctional facility" means a facility that houses prisoners under the jurisdiction of the department according to the following requirements:

(a) The facility is enclosed by a locked fence or wall that is designed to prevent prisoners from leaving the enclosed premises and that is patrolled by correctional officers.

(b) Prisoners in the facility are restricted to the area inside the fence or wall.

(c) Prisoners are under guard by correctional officers 7 days per week, 24 hours per day.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1980, Act 150, Imd. Eff. June 10, 1980;—Am. 1982, Act 179, Imd. Eff. June 14, 1982;—Am. 1994, Act 217, Eff. Dec. 15, 1998;—Am. 1998, Act 512, Imd. Eff. Jan. 8, 1999;—Am. 2012, Act 599, Eff. Mar. 28, 2013;—Am. 2019, Act 16, Eff. Aug. 21, 2019.

Popular name: Department of Corrections Act

Administrative rules: R 791.1101 et seq. of the Michigan Administrative Code.

791.265a Extending limits of confinement; rules; escape from custody; eligibility for extensions of limits of confinement; placement in community residential home; definitions.

Sec. 65a. (1) Under prescribed conditions, the director may extend the limits of confinement of a prisoner when there is reasonable assurance, after consideration of all facts and circumstances, that the prisoner will not become a menace to society or to the public safety, by authorizing the prisoner to do any of the following:

(a) Visit a specifically designated place or places. An extension of limits may be granted only to a prisoner housed in a state correctional facility to permit a visit to a critically ill relative, attendance at the funeral of a relative, or contacting prospective employers. The maximum amount of time a prisoner is eligible for an extension of the limits of confinement under this subdivision shall not exceed a cumulative total period of 30 days.

(b) Obtain medical services not otherwise available to a prisoner housed in a state correctional facility.

(c) Work at paid employment, participate in a training or educational program, or participate in a community residential drug treatment program while continuing as a prisoner housed on a voluntary basis at a community corrections center or in a community residential home.

(2) The director shall promulgate rules to implement this section.

(3) The willful failure of a prisoner to remain within the extended limits of his or her confinement or to return within the time prescribed to an institution or facility designated by the director shall be considered an escape from custody as provided in section 193 of the Michigan penal code, 1931 PA 328, MCL 750.193.

(4) Subject to subsection (8), a prisoner, other than a prisoner subject to disciplinary time, who is convicted of a crime of violence or any assaultive crime is not eligible for the extensions of the limits of confinement provided in subsection (1) until the minimum sentence imposed for the crime has less than 180 days remaining.

(5) Subject to subsection (8), a prisoner subject to disciplinary time is not eligible for the extensions of the limits of confinement provided in subsection (1) until he or she has served the minimum sentence imposed for the crime.

(6) However, notwithstanding subsections (4) or (5), if the reason for the extension is to visit a critically ill relative, attend the funeral of a relative, or obtain medical services not otherwise available, the director may allow the extension under escort as provided in subsection (1).

(7) A prisoner serving a sentence for murder in the first degree is not eligible for the extensions of confinement under this section until a parole release date is established by the parole board and in no case before serving 15 calendar years with a good institutional adjustment.

(8) A prisoner who is convicted of a crime of violence or any assaultive crime, and whose minimum

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

sentence imposed for the crime is 10 years or more, shall not be placed in a community residential home during any portion of his or her sentence.

(9) As used in this section:

(a) "Community corrections center" means a facility either contracted for or operated by the department in which a security staff is on duty 7 days per week, 24 hours per day.

(b) "Community residential home" means a location where electronic monitoring of prisoner presence is provided by the department 7 days per week, 24 hours per day, except that the department may waive the requirement that electronic monitoring be provided as to any prisoner who is within 3 months of his or her parole date.

(c) "State correctional facility" means a facility or institution that houses a prisoner population under the jurisdiction of the department. State correctional facility does not include a community corrections center or community residential home.

History: Add. 1974, Act 68, Imd. Eff. Apr. 1, 1974;—Am. 1987, Act 271, Imd. Eff. Dec. 29, 1987;—Am. 1988, Act 272, Eff. Dec. 1, 1988;—Am. 1994, Act 217, Eff. Dec. 15, 1998;—Am. 1997, Act 13, Imd. Eff. June 5, 1997;—Am. 1998, Act 315, Eff. Dec. 15, 1998;—Am. 2012, Act 599, Eff. Mar. 28, 2013.

Popular name: Department of Corrections Act

791.265b Definitions; transfer of mentally or physically disabled prisoner to medical institution; duration; determination of mental or physical disability; financial responsibility of department; regulations.

Sec. 65b. (1) As used in this section:

(a) "Medical institution" means that term as defined in section 106(2) of Act No. 280 of the Public Acts of 1939, as amended, being section 400.106 of the Michigan Compiled Laws.

(b) "Mentally or physically disabled prisoner" means a prisoner whose physical or mental health has deteriorated to a point which renders the prisoner a minimal threat to society.

(c) "Office of health care" means the office of health care in the department of corrections.

(2) The director may transfer a mentally or physically disabled prisoner to a medical institution for treatment and care. The transfer shall be effective for the duration of the prisoner's sentence, the duration of the existing medical condition causing the prisoner to be mentally or physically disabled, or for any other length of time considered necessary by the director, but shall not exceed the term of the sentence.

(3) The office of health care, upon the request of the director, shall determine whether a prisoner is mentally or physically disabled. The department of corrections shall continue its financial responsibility for the maintenance and care of any inmate transferred to a medical institution under this act. The department shall develop regulations for reimbursement to the institutions to which the parties are transferred.

History: Add. 1980, Act 491, Imd. Eff. Jan. 21, 1981.

Popular name: Department of Corrections Act

791.265c Work camp; construction, maintenance, and operation; purpose; assignment of prisoners; displacement of employed persons or workers on strike or locked out; agreement of bargaining unit; citizens advisory committee; escape; reimbursement of department; collecting and dispersing wages; amount of wages; rules.

Sec. 65c. (1) As used in this section, "work camp" means a correctional facility that houses prisoners who are made available for work as provided in subsection (3).

(2) The department may construct, maintain, and operate work camps for the purpose of housing prisoners who are under its jurisdiction.

(3) Prisoners assigned to work camps may be provided an opportunity to do any of the following, as long as the department has reasonable cause to believe the prisoner will honor the trust placed in him or her by such an assignment:

(a) Perform meaningful work at paid employment in the community.

(b) Provide labor on public works projects.

(c) Perform meaningful work on projects that serve the public interest or a charitable purpose and are operated by organizations that are exempt from taxation under section 501(c)(3) of the internal revenue code. Work performed by prisoners under this subdivision must not result in a competitive disadvantage to a for profit enterprise.

(4) Prisoners made available for work under subsection (3)(c) must not be assigned to work on projects in a manner that results in the displacement of employed persons in the community or the replacement of workers on strike or locked out of work. If a collective bargaining agreement is in effect at a place of employment that is the site of a proposed work project under subsection (3)(c), that bargaining unit must agree to the

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

assignment of prisoners at the place of employment before the assignment is made.

(5) The warden at a correctional facility that makes prisoners available for work under subsection (3)(c) shall appoint a 7-member citizens advisory committee for the purpose of obtaining public input on proposals for assigning prisoners to work on those projects. The committee must include broad representation from the community in which the proposed work project is to be located, including representatives of business, community service, and religious organizations and the president of the local AFL-CIO central labor council, or his or her designee. Before prisoners are assigned to a proposed work project, the proposed assignment must be reviewed by the citizens advisory committee.

(6) The willful failure of a prisoner to report to or return from an assignment to paid employment in the community or on a public work project within the time prescribed, or to remain within the prescribed limits of such an assignment, is considered an escape from lawful custody as provided in section 193(3) of the Michigan penal code, 1931 PA 328, MCL 750.193.

(7) Prisoners employed at paid employment in the community shall reimburse the department for food, clothing, and daily travel expenses to and from work for days worked.

(8) The wages of prisoners employed at paid employment in the community must be collected by the work camp responsible for the prisoner's care.

(9) A work camp collecting wages of a prisoner under subsection (8) shall disperse wages collected in the following priority order:

(a) Reimbursement to the department under subsection (7).

(b) Support of the prisoner's dependents who are receiving public assistance up to the maximum of the public assistance benefit but not exceeding 50% of the prisoner's net earnings.

(c) For prisoners without dependents receiving public assistance, 50% of the prisoner's net earnings must be placed, at the prisoner's option, in either the prisoner's personal noninstitutional savings account or in escrow by the department for use by the prisoner upon release.

(d) The balance, if any, to the prisoner's institutional account.

(10) An employer who employs a prisoner under this section for work to which 1965 PA 166, MCL 408.551 to 408.558, applies shall pay the prisoner the prevailing wage as provided in that act.

(11) An employer who employs a prisoner under this section for work that is not under 1965 PA 166, MCL 408.551 to 408.558, shall pay the prisoner not less than the wage the employer pays to other employees with similar skills and experience.

(12) The department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to establish criteria by which the department shall determine eligibility for participation in the programs of paid employment in the community established by this section.

History: Add. 1981, Act 119, Imd. Eff. July 19, 1981;—Am. 1993, Act 34, Imd. Eff. May 3, 1993;—Am. 2018, Act 295, Eff. Sept. 27, 2018.

Popular name: Department of Corrections Act

791.265d Occurrences requiring entry in law enforcement information network; occurrences requiring certain information to be made available on line; time limitation; scope of entry; "state correctional facility" defined.

Sec. 65d. (1) If 1 or more of the following occur, the department shall make an entry in the law enforcement information network:

(a) A prisoner escapes from a state correctional facility.

(b) A parole violation warrant is issued.

(2) If 1 or more of the following occur, the department shall make available on line to the law enforcement information network, by way of the corrections management information system, the following information:

(a) A prisoner is transferred into a community residential program.

(b) A prisoner is transferred into a minimum custody correctional facility of any kind, including a correctional camp or work camp.

(c) A person's parole status changes.

(3) An entry under subsection (1), or information under subsection (2), shall be entered or made available not later than 24 hours after the event occurs, and shall include the prisoner's name and former name, if any, physical descriptors, the remaining term of his or her sentence, and any other information determined relevant by the department.

(4) As used in this section, "state correctional facility" means a facility or institution which houses a prisoner population under the jurisdiction of the department.

History: Add. 1988, Act 401, Eff. Sept. 24, 1989;—Am. 1996, Act 104, Eff. Apr. 1, 1996.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Popular name: Department of Corrections Act

791.265e Transfer of prisoner to community placement facility; notice.

Sec. 65e. When a prisoner is transferred into a community placement facility of any kind, including a community corrections center, halfway house, or resident home, the department shall send notice of the transfer from the corrections management information system via the law enforcement information network to the sheriff and the Michigan state police post having jurisdiction over the county where the prisoner was originally sentenced, and to the local police department, the county sheriff and the Michigan state police post having jurisdiction over the community placement facility in which the prisoner is placed. The notice required under this section shall include the prisoner's name, the name of the community placement facility, crimes for which the prisoner is serving a sentence, and any other information determined relevant by the department.

History: Add. 1988, Act 392, Eff. Sept. 19, 1989.

Popular name: Department of Corrections Act

791.265f Housing prisoners; prohibitions.

Sec. 65f. (1) Beginning September 30, 1990, a prisoner who is serving a sentence for conviction of an assaultive crime shall not be placed in a privately owned, noncommercial residential dwelling used for housing prisoners.

(2) Beginning on the effective date of this section, for the purpose of housing prisoners, the department shall not open a facility in, or enter into a new contract for, a dwelling originally constructed and intended to be used to house 1 family.

History: Add. 1990, Act 160, Imd. Eff. July 2, 1990.

Popular name: Department of Corrections Act

791.265g Definitions.

Sec. 65g. As used in this section and sections 65h and 65i:

(a) "Community corrections center" means that term as defined in section 65a.

(b) "Community residential home" means that term as defined in section 65a.

(c) "Community status criteria" means the criteria for determining which prisoners are eligible to be placed in community corrections facilities as prescribed in section 65(g)(1).

(d) "Council" means a citizens' council formed under section 65i(1).

(e) "Prisoner" means a person who is under the jurisdiction of the department and has not been released on parole or discharged.

(f) "State correctional facility" means that term as defined in section 65a.

History: Add. 1990, Act 353, Imd. Eff. Dec. 26, 1990.

Compiler's note: In subdivision (c), the reference to "section 65(g)(1)" evidently should be "section 65h(1)."

Popular name: Department of Corrections Act

791.265h Placement in community corrections center or community residential home; community status criteria; location of center; prisoner population; curfew; random checks.

Sec. 65h. (1) A prisoner who does not meet the community status criteria shall not be placed in a community corrections center or community residential home. The community status criteria include all of the following requirements:

(a) The prisoner has been given a level I security classification by the department's bureau of correctional facilities, on a scale of 6 levels in which level I is the least restrictive level.

(b) The prisoner is not serving a sentence for conviction of a crime of escape under section 193 of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being section 750.193 of the Michigan Compiled Laws.

(c) The prisoner is not serving a sentence for conviction of a criminal sexual conduct offense listed in section 2a(1) of chapter IX of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, being section 769.2a of the Michigan Compiled Laws.

(d) The prisoner is not classified as a very high assault risk according to the department's risk screening criteria.

(e) The prisoner does not have any pending felony charges against him or her, and is not subject to a detainer request from another jurisdiction by which the prisoner, upon his or her release, would be returned to that other jurisdiction to begin serving another felony sentence.

(f) The prisoner has not been given a special designation by the department which would prevent his or her placement.

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(g) If the prisoner is serving a sentence for conviction of a crime of violence or an assaultive crime, as defined by rules of the department, the prisoner has less than 180 days remaining on his or her minimum sentence, and otherwise meets the community placement requirements of section 65a.

(h) If the prisoner is not subject to the 180-day rule described in subdivision (g), the prisoner is being placed no earlier in that prisoner's sentence than is allowed by the administrative rules of the department.

(2) Except as provided in subsections (3) and (4), a prisoner who is placed in a community corrections center shall be placed in a center that is located in 1 of the following:

(a) The county of the prisoner's most recent residence as listed on the prisoner's presentence report.

(b) A county in which the prisoner's spouse, parent, grandparent, brother, sister, or child resides.

(3) Subsection (2) does not prohibit the department from operating a community corrections center that serves more than 1 county. Any prisoner placed in such a center shall meet the conditions of subsection (2)(a) or (b) of the counties the center serves.

(4) Notwithstanding subsection (2), not more than 10% of the prisoner population of any community corrections center, at any 1 time, may consist of prisoners who would not be placed in that community corrections center according to the provisions of subsection (2).

(5) The department shall establish a curfew for every prisoner placed in a community corrections center.

(6) Random checks shall be conducted for all prisoners who are allowed off the premises of the community corrections center for purposes of employment, seeking employment, attending school, receiving treatment, or for any other approved reason. The random checks shall be for the purpose of verifying that each prisoner allowed off the premises is participating as scheduled in the function for which he or she is allowed off the premises.

History: Add. 1990, Act 353, Imd. Eff. Dec. 26, 1990.

Popular name: Department of Corrections Act

791.265i Citizens' council.

Sec. 65i. (1) The legislative body of a city, village, or township in which a community corrections center is located may form a 5-member citizens' council by sending written notice of its intention to form a citizens' council to the board of commissioners of the county in which the city, village, or township is located.

(2) Within 30 days after receiving the notice, the county board of commissioners or, in a county that has a county executive, the county executive subject to the concurrence of the county board of commissioners, shall appoint 5 members to the council. Three of the members shall be residents of the city, village, or township in which the community corrections center is located. The remaining 2 members need not be residents of that city, village, or township, but shall be residents of the county. Each member shall serve at the pleasure of the county board of commissioners or county executive that appointed that member.

(3) A citizens' council shall select a chairperson from among its members and other officers necessary for conducting the council's business. A citizens' council shall meet at a place and time determined by the chairperson.

(4) The supervisor of a community corrections center, at the request of the chairperson of the citizens' council in whose jurisdiction that community corrections center is located, shall meet with the council and, if requested by the chairperson, shall provide to the council any of the following information for that community corrections center for the reporting period agreed to by the chairperson and the center supervisor:

(a) The number of prisoners placed in the community corrections center and the number of prisoners returned from the community corrections center to a state correctional facility.

(b) The institutional number, record of convictions, and term of sentence of each prisoner placed in the center, and a summary of the disciplinary problems or major misconduct citations, if any, for each of those prisoners while in the center; and written documentation verifying that the prisoners in the community corrections center were in compliance with the community status criteria on the date of their placement into the community corrections center. The written information provided under this subsection, and all copies of that information, may be distributed to the committee only for the duration of the meeting, and after the meeting shall be retained by the supervisor of the community corrections center or his or her designee.

(c) The number of prisoners in the center who, while in the center, tested positive for the presence of alcohol or controlled substances, resulting in a major misconduct violation.

(d) The number of prisoners who were apprehended and charged with the commission of a new criminal offense while in the center, or after they had escaped from the center and before they had been recaptured.

(e) The number of incidents resulting in a major misconduct violation in which a prisoner placed in the center was absent from the center without authorization, or failed to report to employment, school, treatment, or other destination as to which the prisoner's absence from the center was authorized.

(f) The number of prisoners in the center who are in treatment programs, and a summary of the services

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

offered by those programs.

(g) The number of prisoners in the center who are employed, and the number who are in education programs.

(h) The number of personnel employed at the center and their job classifications, and the number and job classification of any personnel positions at the center that are not filled at the time of the report.

(5) A center supervisor shall not be required to meet with a citizens' council more often than once each month. If the center supervisor is unavailable at the time of a meeting called pursuant to subsection (4), the regional supervisor may appoint a designee to act on the center supervisor's behalf. If a community corrections center does not have a center supervisor, the duties of the center supervisor under this section shall be performed by a regional supervisor, field agent, or other person designated by the department as being generally responsible for overseeing the daily operation of that community corrections center.

(6) If a citizens' council believes that the placement of a prisoner into a community corrections center within its jurisdiction was made in violation of the community status criteria, the council shall give written or verbal notice to the center supervisor. If the center supervisor believes that the council was incorrect in its determination, the center supervisor or his or her designee shall meet with the council or chairperson of the council within 2 business days after receiving the notice, and shall review the prisoner's record and the community placement criteria and shall determine whether or not the placement violates the community placement criteria. If it is determined by the center supervisor that the placement does violate the community placement criteria, the department shall reclassify the prisoner to be returned to a state correctional facility.

(7) Each citizens' council may report annually to the county board of commissioners for that county or, in a county that has a county executive, to the county executive, and the state representatives and state senators for that district. The report shall describe the effect on the city, village, or township and the surrounding communities of the community corrections centers in the council's jurisdiction, and shall include a summary of information provided to the council under subsection (4).

(8) A citizens' council also shall do all of the following:

(a) Act as a liaison between the residents of the area affected by the community corrections center or centers in its jurisdiction and the department as to issues concerning the center or centers.

(b) Review policies and procedures governing the operation of the center or centers in its jurisdiction, including placement and supervision standards.

History: Add. 1990, Act 353, Imd. Eff. Dec. 26, 1990.

Popular name: Department of Corrections Act

CAUTION! This document is from an archive and may contain outdated information.

791.266 Commitment by courts; purpose of classification.

Sec. 66. For the purpose of classification, all convicted prisoners shall be committed by courts of criminal jurisdiction of the state, to the commission, at a place to be designated by the commission.

History: 1953, Act 232, Eff. Oct. 2, 1953.

Popular name: Department of Corrections Act

791.267 Temporary confinement; study of prisoner; suitability of prisoner to type of rehabilitation required; report; execution of confinement order; test for HIV or antibody to HIV; applicability of subsection (2); housing prisoner in administrative segregation, inpatient health care unit, or unit separate from general prisoner population; reporting positive test result; exposure of employee to blood or body fluid of prisoner; testing employee; employee equipment; HIV positive prisoner not to work in health facility; seroprevalence study; disclosure of test results; counseling; AIDS education program; definitions.

Sec. 67. (1) Quarters for temporary confinement apart from those of regular inmates shall be provided for convicted prisoners upon commitment at each of the state correctional facilities, which the director shall designate as a reception center. Within 60 days after the arrival of a convicted prisoner at a state correctional facility, the classification committee shall make and complete a comprehensive study of the prisoner, including physical and psychiatric examinations, to ensure that the prisoner is confined in the state correctional facility suited to the type of rehabilitation required in his or her case. The warden of the state correctional facility shall deliver a report of the study of the classification committee to the deputy director of the correctional facilities administration, who shall, within 5 days after receipt of the report, execute an order to confine the prisoner in the state correctional facility determined as suitable by the deputy director.

(2) Immediately upon arrival at a reception center designated under subsection (1), each incoming prisoner shall undergo a test for HIV or an antibody to HIV. This subsection does not apply if an incoming prisoner

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

has been tested for HIV or an antibody to HIV under section 5129 of the public health code, 1978 PA 368, MCL 333.5129, within the 3 months immediately preceding the date of the prisoner's arrival at the reception center, as indicated by the record transferred to the department by the court under that section.

(3) If a prisoner receives a positive test result and is subsequently subject to discipline by the department for sexual misconduct that could transmit HIV, illegal intravenous use of controlled substances, or assaultive or predatory behavior that could transmit HIV, the department shall house that prisoner in administrative segregation, an inpatient health care unit, or a unit separate from the general prisoner population, as determined by the department.

(4) The department shall report each positive test result to the department of community health, in compliance with section 5114 of the public health code, 1978 PA 368, MCL 333.5114.

(5) If an employee of the department sustains a percutaneous, mucous membrane, or open wound exposure to the blood or body fluid of a prisoner, the employee may, and the department shall, proceed under section 67b.

(6) Upon the request of an employee of the department, the department shall provide or arrange for a test for HIV or an antibody to HIV for that employee, free of charge.

(7) Upon the request of an employee of the department, the department shall provide to that employee the equipment necessary to implement universal precautions to prevent transmission of HIV infection.

(8) A prisoner who receives a positive HIV test result shall not work in a health facility operated by the department.

(9) The department shall conduct a seroprevalence study of the prisoners in all state correctional facilities to determine the percentage of prisoners who are HIV infected.

(10) The results of a test for HIV or an antibody to HIV conducted under this section shall be disclosed by the department under section 67b.

(11) The deputy director of the correctional facilities administration shall take steps to ensure that all prisoners who receive HIV testing receive counseling regarding AIDS including, at a minimum, treatment, transmission, and protective measures.

(12) The department, in conjunction with the department of community health, shall develop and implement a comprehensive AIDS education program designed specifically for correctional environments. The program shall be conducted by the bureau within the department responsible for health care, for staff and for prisoners at each state correctional facility.

(13) As used in this section:

(a) "AIDS" means acquired immunodeficiency syndrome.

(b) "HIV" means human immunodeficiency virus.

(c) "Positive test result" means a double positive enzyme-linked immunosorbent assay test, combined with a positive western blot assay test, or a positive test under an HIV test that is considered reliable by the federal centers for disease control and is approved by the department of community health.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1960, Act 103, Imd. Eff. Apr. 26, 1960;—Am. 1988, Act 510, Eff. Mar. 30, 1989;—Am. 1996, Act 565, Imd. Eff. Jan. 16, 1997;—Am. 2012, Act 24, Imd. Eff. Feb. 23, 2012.

Popular name: Department of Corrections Act

791.267a Nonemergency medical, dental, or optometric services; intentional injury; copayment or payment by prisoner; on-site medical treatment; report on feasibility and cost.

Sec. 67a. (1) A prisoner who receives nonemergency medical, dental, or optometric services at his or her request is responsible for a copayment fee to the department for those services, as determined by the department. If the prisoner is a minor, the prisoner's parent or guardian is also responsible for a copayment fee imposed under this section.

(2) A prisoner who intentionally injures himself or herself, and receives emergency medical care for that injury, is responsible for the entire cost of the medical care, rather than the copayment described in subsection (1).

(3) The department shall determine whether those prisoners who injure themselves intentionally shall be housed in a facility designed to allow on-site medical treatment of those injuries. Not later than 6 months after the effective date of this section, the director of the department shall report to the legislature on the feasibility and cost of implementing this subsection.

History: Add. 1996, Act 234, Eff. Mar. 31, 1997.

Popular name: Department of Corrections Act

791.267b Exposure of employee to blood or body fluid of prisoner; request to test prisoner

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

for HIV or HBV infection; form and contents of request; determination; prisoner consent not required; counseling; determination not requiring HIV or HBV infection testing; notice of HIV or HBV test results; confidentiality; forms; violation of subsection (8) as misdemeanor; report; definitions.

Sec. 67b. (1) If an employee of the department sustains a percutaneous, mucous membrane, or open wound exposure to the blood or body fluids of a prisoner, the employee may request that the prisoner be tested for HIV infection or HBV infection, or both, pursuant to this section.

(2) An employee shall make a request described in subsection (1) to the department in writing on a form provided by the department within 72 hours after the exposure occurs. The request form shall be dated and shall contain at a minimum the name and address of the employee making the request and a description of his or her exposure to the blood or other body fluids of the prisoner. The request form shall contain a space for the information required under subsection (6) and a statement that the requester is subject to the confidentiality requirements of subsection (8) and section 5131 of the public health code, 1978 PA 368, MCL 333.5131. The request form shall not contain information that would identify the prisoner.

(3) Upon receipt of a request under this section, the department shall make a determination as to whether or not there is reasonable cause to believe that the exposure described in the request occurred and if it was a percutaneous, mucous membrane, or open wound exposure pursuant to R 325.70001 to R 325.70018 of the Michigan administrative code. If the department determines that there is reasonable cause to believe that the exposure described in the request occurred and was a percutaneous, mucous membrane, or open wound exposure, the department shall test the prisoner for HIV infection or HBV infection, or both, as indicated in the request, subject to subsection (4).

(4) In order to protect the health, safety, and welfare of department employees, the department may test a prisoner under subsection (3) whether or not the prisoner consents to the test. The department is not required to give the prisoner an opportunity for a hearing or to obtain an order from a court of competent jurisdiction before administering the test.

(5) The department is not required to provide HIV counseling pursuant to section 5133(1) of the public health code, 1978 PA 368, MCL 333.5133, to an employee who requests that a prisoner be tested for HIV under this section, unless the department tests the employee for HIV.

(6) The department shall comply with this subsection if the department receives a request under this section and determines either that there is not reasonable cause to believe the requester's description of his or her exposure or that the exposure was not a percutaneous, mucous membrane, or open wound exposure and as a result of the determination the department is not required to test the prisoner for HIV infection or HBV infection, or both. The department shall state in writing on the request form the reason it determined there was not reasonable cause to believe the requester's description of his or her exposure or for the department's determination that the exposure was not a percutaneous, mucous membrane, or open wound exposure, as applicable. The department shall transmit a copy of the completed request form to the requesting individual within 2 days after the date the department makes the determination described in this subsection.

(7) The department shall notify the requesting employee of the HIV or HBV test results, or both, whether positive or negative, within 2 days after the test results are obtained by the department. The notification shall be transmitted directly to the requesting employee or, upon request of the requesting employee, to his or her primary care physician or other health professional designated by the employee. The notice required under this subsection shall include an explanation of the confidentiality requirements of subsection (8).

(8) The notice required under subsection (7) shall not contain information that would identify the prisoner who tested positive or negative for HIV or HBV. The information contained in the notice is confidential and is subject to this section, the rules promulgated under section 5111 of the public health code, 1978 PA 368, MCL 333.5111, and section 5131 of the public health code, 1978 PA 368, MCL 333.5131. A person who receives confidential information under this section shall disclose the information to others only to the extent consistent with the authorized purpose for which the information was obtained.

(9) The department shall develop and distribute the forms required under this section.

(10) In addition to the penalties prescribed in the rules promulgated under section 5111 of the public health code, 1978 PA 368, MCL 333.5111 and in section 5131 of the public health code, 1978 PA 368, MCL 333.5131, a person who discloses information in violation of subsection (8) is guilty of a misdemeanor.

(11) The department shall report to the department of community health each test result obtained under this section that indicates that an individual is HIV infected, in compliance with section 5114 of the public health code, 1978 PA 368, MCL 333.5114.

(12) As used in this section:

(a) "Employee" means an individual who is employed by or under contract to the department of

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

corrections.

(b) "HBV" means hepatitis B virus.

(c) "HBV infected" or "HBV infection" means the status of an individual who is tested as HBsAg-positive.

(d) "HIV" means human immunodeficiency virus.

(e) "HIV infected" means that term as defined in section 5101 of the public health code, 1978 PA 368, MCL 333.5101.

History: Add. 1996, Act 565, Imd. Eff. Jan. 16, 1997;—Am. 2010, Act 120, Imd. Eff. July 13, 2010.

Popular name: Department of Corrections Act

791.268 Payment of filing fees or costs by prisoner; court order to make monthly payments; removal of amount from prisoner institutional account.

Sec. 68. If a prisoner is ordered by a court to make monthly payments for the purpose of paying the balance of filing fees or costs under section 2963 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2963 of the Michigan Compiled Laws, the department shall remove those amounts from the institutional account of the prisoner subject to the order and, when an amount equal to the balance of the filing fees or costs due is removed, remit that amount as directed in the order.

History: Add. 1996, Act 556, Eff. Mar. 31, 1997.

Compiler's note: Former MCL 791.268, which pertained to mental evaluation as condition to release of certain prisoners, was repealed by Act 258 of 1974, Eff. Aug. 6, 1975.

Popular name: Department of Corrections Act

791.268a Visits from minors; conditions; restrictions; "minor" defined.

Sec. 68a. (1) Except as otherwise provided in subsection (2), a prisoner may be permitted to receive visits from a minor brother, sister, stepbrother, stepsister, half brother, or half sister if that minor is on the prisoner's approved visitor list.

(2) Notwithstanding subsection (1), the department may do any of the following:

(a) Place limits on visiting hours, establish reasonable rules of conduct, and establish uniform quotas at each institution for visits to prisoners to promote order and security in the institutions and to prevent interference with institutional routine or disruption of a prisoner's programming.

(b) Establish requirements for who must accompany the minor on the visit.

(c) Deny, restrict, or terminate visits as determined necessary by the department for the order and security of the institution.

(3) As used in this section, "minor" means a person who is less than 18 years of age.

History: Add. 2001, Act 8, Imd. Eff. May 25, 2001.

Popular name: Department of Corrections Act

791.269 Confiscation and disposal of items in possession of prisoner; request of victim or victim's representative; "victim's representative" defined.

Sec. 69. (1) Upon the request of a victim or a victim's representative, the department shall confiscate and dispose of any of the following that are in the possession of a prisoner:

(a) Any item belonging to that victim or that formerly belonged to that victim.

(b) A photograph, drawing, or other visual image or representation of the victim.

(2) As used in this section, "victim's representative" means either of the following:

(a) If the victim is less than 18 years of age, his or her parent or legal guardian.

(b) If the victim is deceased or otherwise unable to exercise his or her rights under this section, a member of the victim's immediate family or, if there is no immediate family member, the victim's next of kin.

History: Add. 2012, Act 598, Eff. Mar. 28, 2013.

Compiler's note: Former MCL 791.269, which pertained to cell occupancy requirements for new housing or facilities, was repealed by Act 18 of 1995, Imd. Eff. Apr. 12, 1995.

Popular name: Department of Corrections Act

791.269a Subjecting visitor to pat down search; condition; waiver; definitions.

Sec. 69a. (1) A visitor to a state correctional facility shall not be subjected to a pat down search unless every person performing or assisting in performing the pat down search is of the same sex as the person being searched. If the necessary personnel are not readily available, a visitor at his or her option may waive the provisions of this subsection by signing a waiver provided by the department of corrections.

(2) As used in this section:

(a) "Pat down search" means a search of a person in which the person conducting the search touches the

CAUTION! This document is an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

body or clothing, or both, of the person being searched to detect the presence of concealed objects.

(b) "State correctional facility" means a facility or institution that houses prisoners under the jurisdiction of the department.

History: Add. 1990, Act 42, Imd. Eff. Mar. 29, 1990;—Am. 1998, Act 512, Imd. Eff. Jan. 8, 1999;—Am. 2012, Act 599, Eff. Mar. 28, 2013.

Popular name: Department of Corrections Act

791.269b Inmate reentry services; applicants from nonprofit faith-based, business and professional, civic, and community organizations; screening, approval, and registration of organizations; denial; posting of telephone number and application on public Internet website; endorsement or sponsorship by department prohibited; required participation by inmate prohibited.

Sec. 69b. (1) Subject to the policies and procedures adopted under subsection (2) for screening and approving applicants, the department shall allow representatives from all nonprofit faith-based, business and professional, civic, and community organizations to apply to be registered with the department under this section for the purpose of providing inmate reentry services. Reentry services include, but are not limited to, counseling, providing information on housing and job placement, and money management assistance.

(2) The department shall develop and adopt policies and procedures for screening, approving, and registering organizations, and representatives from those organizations listed under subsection (1) that apply to provide inmate reentry services. The department may deny approval and registration to an organization, or a representative from an organization listed under subsection (1) if the department determines that the organization or representative does not meet the department's screening guidelines. The department and each of the correctional facilities in this state retain the discretion to deny entry into a correctional facility at any time to a representative of an organization listed under subsection (1) regardless of whether that representative previously applied to and was registered with the department to provide inmate reentry services within a correctional facility.

(3) The department shall post a department telephone number and provide an application for registration on its public Internet website for use by representatives from an organization described in subsection (1) who wish to provide inmate reentry services to obtain information and to begin the application process for registration with the department.

(4) The department shall not endorse or sponsor any faith-based reentry program or endorse any specific religious message. The department shall not require an inmate to participate in a faith-based program.

History: Add. 2017, Act 6, Eff. June 29, 2017.

Popular name: Department of Corrections Act

CAUTION! This document is from an archive and may contain outdated information.

CHAPTER V
BUREAU OF PRISON INDUSTRIES.

791.270 Monitoring of telephone communications; conditions; disclosure of obtained information; evidence in criminal prosecution; definitions.

Sec. 70. (1) A correctional facility may monitor telephone communications over telephones available for use by prisoners in the correctional facility if all of the following conditions are met:

(a) The director promulgates rules under which the monitoring is to be conducted, and the monitoring is conducted in accordance with those rules. The rules shall include provisions for minimizing the intrusiveness of the monitoring and shall prescribe a procedure by which a prisoner may make telephone calls to his or her attorney, and any federal, state, or local public official if requested by that public official, that are not monitored.

(b) The monitoring is routinely conducted for the purpose of preserving the security and orderly management of the correctional facility, interdicting drugs and other contraband, and protecting the public, and is performed by employees of the department or, in the case of a correctional facility operated by a private contractor under section 20g or 20j, is conducted by employees of the private contractor.

(c) Notices are prominently posted on or near each telephone subject to monitoring informing users of the telephone that communications over the telephone may be monitored.

(d) In addition to the posting of notices under subdivision (c), the prisoners in the correctional facility are given reasonable notice of the rules promulgated under subdivision (a).

(e) Each party to the conversation is notified by voice that the conversation is being monitored.

(2) A correctional facility shall disclose information obtained under this section regarding a crime or attempted crime to any law enforcement agency having jurisdiction over that crime or attempted crime.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

(3) Evidence obtained under this section regarding a crime or attempted crime may be considered as evidence in a criminal prosecution for that crime or attempted crime.

(4) As used in this section:

(a) "Correctional facility" includes a correctional facility operated under section 20g or 20j by the department or a private contractor.

(b) "Monitor" means to listen to or record, or both.

History: Add. 1993, Act 255, Imd. Eff. Nov. 29, 1993;—Am. 1998, Act 512, Imd. Eff. Jan. 8, 1999;—Am. 2012, Act 599, Eff. Mar. 28, 2013.

Popular name: Department of Corrections Act

791.271 Bureau of prison industries; supervision of industrial plants.

Sec. 71. The assistant director of the bureau of prison industries is hereby vested with the control, management, coordination and supervision of the industrial plants connected with the several penal institutions, and subject to the approval of the director shall appoint all bureau personnel as may be necessary.

History: 1953, Act 232, Eff. Oct. 2, 1953.

Popular name: Department of Corrections Act

CHAPTER VI
MISCELLANEOUS.

791.281 Powers and duties transferred; department abolished; rules and regulations.

Sec. 81. The powers and duties vested by law in the state department of corrections created under the provisions of Act No. 4 of the Public Acts of the Second Extra Session of 1947, as amended, being sections 791.1 to 791.123, inclusive, of the Compiled Laws of 1948, are hereby transferred to and vested in the state department of corrections herein created. Immediately on the taking effect of this act the state department of corrections created under said Act No. 4 of the Public Acts of the Second Extra Session of 1947, as amended, shall be abolished, and the state department of corrections herein created shall be the successor to all the powers, duties and responsibilities thereof, and whenever reference is made in any law of the state to the department of corrections reference shall be deemed to be intended to be made to the state department of corrections herein created. Any hearing or other proceeding pending before the state department of corrections created under Act No. 4 of the Public Acts of the Second Extra Session of 1947, as amended, shall not be abated but shall be deemed to be transferred to the department created under the provisions of this act, and shall be conducted and determined thereby in accordance with the provisions of the law governing such hearing or proceeding. All records, files and other papers belonging to the state department of corrections created under Act No. 4 of the Public Acts of the Second Extra Session of 1947, as amended, shall be turned over to the state department of corrections created under this act and shall be continued as a part of the records and files thereof. All orders and rules and regulations shall continue in effect at the pleasure of the department created under the provisions of this act, acting within its lawful authority. All of the powers and duties vested in the state department of corrections created under Act No. 4 of the Public Acts of the Second Extra Session of 1947, as amended, shall be transferred to and vested in the department of corrections created under this act.

History: 1953, Act 232, Eff. Oct. 2, 1953.

Popular name: Department of Corrections Act

791.282 Transfers of appropriations.

Sec. 82. The provisions of any other law to the contrary notwithstanding, for the fiscal year ending June 30, 1954, the commission may, with the approval of the state administrative board, make such transfers of appropriations as are necessary to carry out the intent of this act.

History: 1953, Act 232, Eff. Oct. 2, 1953.

Popular name: Department of Corrections Act

791.283 Reversed, vacated, or overturned conviction or sentence; prisoner discharged from custody; services and documents to be provided to prisoner; assignment of staff; reinstatement or resentencing; repayment for services.

Sec. 83. (1) The department shall provide all of the following to a prisoner who is discharged from custody prior to his or her maximum discharge date without being granted parole because his or her conviction or sentence has been reversed, vacated, or overturned:

(a) Reentry services, excluding reentry housing, consistent with the services received by parolees in this

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

state for a period not to exceed 2 years following the date of his or her discharge.

(b) Reentry housing, consistent with the transitional housing provided to parolees in this state for a period not to exceed 1 year following the date of his or her discharge.

(c) Vital documents, including, but not limited to, the prisoner's birth certificate.

(2) The department shall assign staff to ensure that a prisoner eligible for the services and documents described in subsection (1) is provided with those services and documents in a timely manner.

(3) A prisoner who received the reentry services described in subsection (1) and whose conviction is subsequently reinstated or who is resentenced and returned to the custody of the department for the same conviction that was previously reversed, vacated, or overturned entitling him or her to the services described in subsection (1) shall repay the department for all reentry services he or she received under subsection (1). The amount owed by a prisoner under this subsection shall be determined by the department.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 2016, Act 344, Eff. Mar. 29, 2017.

Popular name: Department of Corrections Act

791.284 Supervised individuals who have absconded from supervision and whom law enforcement agency is actively seeking; list; definitions.

Sec. 84. (1) On a quarterly basis, the department shall provide to the department of health and human services a list of supervised individuals who have absconded from supervision and whom a law enforcement agency or the department is actively seeking.

(2) As used in this section:

(a) "Abscond" means the intentional failure of an individual supervised under this act to report to his or her supervising agent and to advise his or her supervising agent of his or her whereabouts.

(b) "Actively seeking" means either of the following:

(*i*) A law enforcement agency or the department intends to enforce an outstanding felony warrant for a supervised individual or arrest a supervised individual for a parole violation or for absconding from supervision within the following 30 days.

(*ii*) The supervised individual has an active warrant for absconding.

(c) "Supervised individual" means an individual who has been released from prison on parole.

History: Add. 2017, Act 12, Eff. June 29, 2017.

Popular name: Department of Corrections Act

791.285 Lifetime electronic monitoring program; establishment; implementation; manner of wearing or carrying; reimbursement; "electronic monitoring" defined.

Sec. 85. (1) The lifetime electronic monitoring program is established in the department. The lifetime electronic monitoring program must implement a system of monitoring individuals released from parole, prison, or both parole and prison who are sentenced by the court to lifetime electronic monitoring. The lifetime electronic monitoring program must accomplish all of the following:

(a) By electronic means, track the movement and location of each individual from the time the individual is released on parole or from prison until the time of the individual's death.

(b) Develop methods by which the individual's movement and location may be determined, both in real time and recorded time, and recorded information retrieved upon request by the court or a law enforcement agency.

(2) An individual who is sentenced to lifetime electronic monitoring shall wear or otherwise carry an electronic monitoring device as determined by the department under the lifetime electronic monitoring program in the manner prescribed by that program and shall reimburse the department or its agent as provided under section 36a while the individual is still on parole, and at the rate of $60.00 per month after the individual is discharged from parole but is still subject to electronic monitoring.

(3) As used in this section, "electronic monitoring" means a device by which, through global positioning system satellite or other means, an individual's movement and location are tracked and recorded.

History: Add. 2006, Act 172, Eff. Aug. 28, 2006;—Am. 2019, Act 164, Eff. Mar. 19, 2020.

Popular name: Department of Corrections Act

CAUTION! This document is from an archive and may contain outdated information.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov