

HOUSE BILL NO. 5537

November 09, 2021, Introduced by Reps. Stone, Cavanagh, Brenda Carter, Sowerby, Brixie, Thanedar and Kupp and referred to the Committee on Elections and Ethics.

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending sections 34c and 35 (MCL 791.234c and 791.235), section
34c as added by 2012 PA 24 and section 35 as amended by 2019 PA 13.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 34c. (1) The department, by contract or otherwise, shall
2 assist prisoners with reentry into the community, including, but
3 not limited to, doing ~~both~~**all** of the following:
4 (a) Assisting prisoners in obtaining the identification

1 documents described in this section.

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

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

13 (ii) A ~~social security~~ **Social Security** card or ~~social security~~
14 **Social Security** number verification, if possible to obtain.

15 (c) **Providing prisoners with the following information**
16 **regarding voter registration and election processes:**

17 (i) **That section 758b of the Michigan election law, 1954 PA**
18 **116, MCL 168.758b, does not prohibit an individual from voting at**
19 **an election once that individual is no longer confined.**

20 (ii) **Specific information on how to register to vote and the**
21 **process of voting by absentee ballot.**

22 (iii) **The regular election dates as provided under section 641**
23 **of the Michigan election law, 1954 PA 116, MCL 168.641.**

24 ~~(2) A prisoner's refusal to obtain or attempt to obtain the~~
25 ~~documents identified in subsection (1)(b) may be included as part~~
26 ~~of the prisoner's parole eligibility report, as provided in section~~
27 ~~35(7)(e).~~

28 **(2) ~~(3)~~** This section applies to all prisoners who are serving
29 a sentence under the jurisdiction of the department after ~~the~~

1 ~~effective date of the amendatory act that added this section~~
 2 **February 23, 2012** who are eligible to obtain an operator's license
 3 under section 307 of the Michigan vehicle code, 1949 PA 300, MCL
 4 257.307, or ~~a~~ **an official** state personal identification card under
 5 section 1 of 1972 PA 222, MCL 28.291.

6 (3) ~~(4)~~—The department shall include in writing to each
 7 prisoner the information described in section 14(9)(b) of chapter
 8 XI of the code of criminal procedure, 1927 PA 175, MCL 771.14,
 9 listing the identification documents referenced in subsection (1).
 10 For a prisoner who begins serving a sentence under the jurisdiction
 11 of the department after ~~the effective date of the amendatory act~~
 12 ~~that added this section,~~ **February 23, 2012**, the department shall
 13 provide that written information during reception center
 14 processing. For any prisoner who is under the jurisdiction of the
 15 department on ~~the effective date of the amendatory act that added~~
 16 ~~this section,~~ **February 23, 2012**, the department shall provide that
 17 written information ~~as follows:~~

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

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

22 (4) ~~(5)~~—The department shall allow the secretary of state to
 23 have electronic access to prisoner information for the purpose of
 24 verifying the identity of prisoners who apply for driver licenses
 25 or **official** state personal identification cards.

26 (5) ~~(6)~~—The reentry success fund is created within the state
 27 treasury. The state treasurer may receive money or other assets
 28 from any source for deposit into the fund. The state treasurer
 29 shall direct the investment of the fund. The state treasurer shall

1 credit to the fund interest and earnings from fund investments.
2 Money in the fund at the close of the fiscal year ~~shall~~**must** remain
3 in the fund and ~~shall~~**must** not lapse to the general fund. The
4 department of corrections shall expend money from the reentry
5 success fund, upon appropriation, only for the expenses of
6 performing the activities required by this section.

7 Sec. 35. (1) The release of a prisoner on parole must be
8 granted solely upon the initiative of the parole board. There is no
9 entitlement to parole. The parole board may grant a parole without
10 interviewing the prisoner if, after evaluating the prisoner
11 according to the parole guidelines, the parole board determines
12 that the prisoner has a high probability of being paroled and the
13 parole board therefore intends to parole the prisoner. Except as
14 provided in subsection (2), a prisoner must not be denied parole
15 without an interview before 1 member of the parole board. The
16 interview must be conducted at least 1 month before the expiration
17 of the prisoner's minimum sentence less applicable good time and
18 disciplinary credits for a prisoner eligible for good time and
19 disciplinary credits, or at least 1 month before the expiration of
20 the prisoner's minimum sentence for a prisoner subject to
21 disciplinary time. The parole board shall consider any statement
22 made to the parole board by a crime victim under the William Van
23 Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to
24 780.834, or under any other provision of law. The parole board
25 shall not consider any of the following factors in making a parole
26 determination:

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

29 (b) Information that is determined by the parole board to be

1 inaccurate or irrelevant after a challenge and presentation of
2 relevant evidence by a prisoner who has received a notice of intent
3 to conduct an interview as provided in subsection (4). This
4 subdivision applies only to presentence investigation reports
5 prepared before April 1, 1983.

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

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

13 (a) A prisoner's marital history.

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

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

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

1 of intent to conduct an interview.

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

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

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

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

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

29 (d) Whether the prisoner fully cooperated with this state by

1 providing complete financial information as required under section
2 3a of the state correctional facility reimbursement act, 1935 PA
3 253, MCL 800.403a.

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

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

9 **(f)** ~~(g)~~ The result on any validated risk assessment
10 instrument.

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

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

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

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

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

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

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

26 (ii) To the release of his or her medical records that are
27 directly relevant to the condition or conditions rendering the
28 prisoner medically frail to the prosecutor and sentencing or
29 successor judge of the county from which the prisoner was committed

1 before the parole board determines whether or not to grant the
2 prisoner parole under subsection (10).

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

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

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

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

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

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

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

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

29 (c) The parolee is no longer at the medical facility approved

1 by the parole board.

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

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

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

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

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

21 (17) A parolee granted parole under subsection (10) and placed
22 in a medical facility has the same patient rights and
23 responsibilities as any other individual who is a resident of or
24 has been admitted to the medical facility. The medical facility is
25 not responsible for the enforcement of conditions of parole or the
26 reporting of violations of conditions of parole for any parolee
27 placed in the medical facility. The medical facility shall comply
28 with state and federal laws and regulations that protect resident
29 rights and state and federal laws and regulations for skilled

1 nursing facilities, regardless of the conditions of parole imposed
2 on a resident parolee.

3 (18) The process for a parole determination under subsection
4 (10) does not change or affect any of the rights afforded to a
5 victim under the William Van Regenmorter crime victim's rights act,
6 1985 PA 87, MCL 780.751 to 780.834.

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

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

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

26 (22) As used in this section:

27 (a) "Activities of daily living" means basic personal care and
28 everyday activities as described in 42 CFR 441.505, including, but
29 not limited to, tasks such as eating, toileting, grooming,

1 dressing, bathing, and transferring from 1 physical position to
2 another, including, but not limited to, moving from a reclining
3 position to a sitting or standing position.

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

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

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

17 (A) Walk.

18 (B) Stand.

19 (C) Sit.

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