

HOUSE BILL NO. 5698

May 01, 2024, Introduced by Reps. Young, Dievendorf, Brenda Carter, Rheingans, Andrews, Hope, McKinney, O'Neal, Hood, McFall, Glanville, Pohutsky and Paiz and referred to the Committee on Criminal Justice.

A bill to amend 1953 PA 232, entitled "Corrections code of 1953," by amending section 67 (MCL 791.267), as amended by 2012 PA 24, and by adding sections 34e, 67c, and 67d.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 34e. (1) Subject to this section, the department shall
2 create a prerelease mental health discharge plan for each
3 incarcerated individual who is receiving mental health services or

1 mental health prescription medication before the individual is
2 released on parole. The department may seek consultative assistance
3 from the department of health and human services in creating a plan
4 under this subsection.

5 (2) A plan developed under subsection (1) must include all of
6 the following regarding the incarcerated individual:

7 (a) A mental health assessment that includes the use of the
8 following assessment tools:

9 (i) Patient Health Questionnaire-9.

10 (ii) Generalized Anxiety Disorder 7-Item Scale.

11 (iii) Patient Health Questionnaire-2.

12 (iv) Opioid Risk Tool.

13 (b) Identification of risk factors related to transportation,
14 housing, and family stress.

15 (c) An appointment scheduled after release with a mental
16 health professional who is capable of providing, in a culturally
17 sensitive manner, postrelease mental health prescription medication
18 and other mental or behavioral health services, including, but not
19 limited to, family counseling and family reunification services, if
20 applicable.

21 (d) If the incarcerated individual is receiving mental health
22 prescription medication at the time of discharge planning, steps
23 that will provide the individual access to the mental health
24 prescription medication between the individual's release and the
25 appointment described under subdivision (c).

26 (e) An assessment of whether the incarcerated individual is
27 eligible upon release for enrollment in Medicaid or Medicare under
28 state or federal regulations governing eligibility and enrollment.
29 If the incarcerated individual is eligible, the individual must be

1 provided with information on enrollment.

2 (f) Goals and activities that address the needs and barriers
3 identified under subdivisions (a) to (e).

4 (g) A list of care team members that will support the
5 incarcerated individual as the individual transitions out of the
6 correctional facility, including community health or social program
7 providers.

8 (h) Input from the incarcerated individual and a communication
9 plan for the duration of parole.

10 Sec. 67. (1) Quarters for temporary confinement apart from
11 those of regular inmates shall ~~must~~ be provided for convicted
12 ~~prisoners~~ **incarcerated individuals** upon commitment at each of the
13 state correctional facilities, which the director shall designate
14 as a reception center. ~~Within~~ **Subject to this subsection, not more**
15 **than** 60 days after the arrival of a convicted ~~prisoner~~ **incarcerated**
16 **individual** at a state correctional facility, the classification
17 committee shall make and complete a comprehensive study of the
18 ~~prisoner,~~ **incarcerated individual**, including physical and
19 psychiatric examinations, to ensure that the ~~prisoner~~ **incarcerated**
20 **individual** is confined in the state correctional facility suited to
21 the type of rehabilitation required in ~~his or her~~ **the incarcerated**
22 **individual's** case. **The psychiatric examination required under this**
23 **subsection must be completed not more than 7 days after the arrival**
24 **of the incarcerated individual and must include an assessment for a**
25 **significant diagnosis. The psychiatric examination must be**
26 **performed in a culturally sensitive manner.** The warden of the state
27 correctional facility shall deliver a report of the study of the
28 classification committee to the deputy director of the correctional
29 facilities administration, who shall, within 5 days after receipt

1 of the report, execute an order to confine the ~~prisoner~~
2 **incarcerated individual** in the state correctional facility
3 determined as suitable by the deputy director.

4 (2) Immediately upon arrival at a reception center designated
5 under subsection (1), each incoming ~~prisoner shall~~ **incarcerated**
6 **individual must** undergo a test for HIV or an antibody to HIV. This
7 subsection does not apply if an incoming ~~prisoner~~ **incarcerated**
8 **individual** has been tested for HIV or an antibody to HIV under
9 section 5129 of the public health code, 1978 PA 368, MCL 333.5129,
10 within the 3 months immediately preceding the date of the
11 ~~prisoner's~~ **incarcerated individual's** arrival at the reception
12 center, as indicated by the record transferred to the department by
13 the court under that section.

14 (3) If a ~~prisoner~~ **an incarcerated individual** receives a
15 positive test result and is subsequently subject to discipline by
16 the department for sexual misconduct that could transmit HIV,
17 illegal intravenous use of controlled substances, or assaultive or
18 predatory behavior that could transmit HIV, the department shall
19 house that ~~prisoner~~ **incarcerated individual** in administrative
20 segregation, an inpatient health care unit, or a unit separate from
21 the general prisoner population, as determined by the department.

22 (4) The department shall report each positive test result to
23 the department of ~~community~~ **health and human services**, in
24 compliance with section 5114 of the public health code, 1978 PA
25 368, MCL 333.5114.

26 (5) If an employee of the department sustains a percutaneous,
27 mucous membrane, or open wound exposure to the blood or body fluid
28 of a ~~prisoner~~, **an incarcerated individual**, the employee may, and
29 the department shall, proceed under section 67b.

1 (6) Upon the request of an employee of the department, the
2 department shall provide or arrange for a test for HIV or an
3 antibody to HIV for that employee, free of charge.

4 (7) Upon the request of an employee of the department, the
5 department shall provide to that employee the equipment necessary
6 to implement universal precautions to prevent transmission of HIV
7 infection.

8 (8) ~~A prisoner~~ **An incarcerated individual** who receives a
9 positive HIV test result ~~shall~~ **may** not work in a health facility
10 operated by the department.

11 (9) The department shall conduct a seroprevalence study of the
12 ~~prisoners~~ **incarcerated individuals** in all state correctional
13 facilities to determine the percentage of prisoners who are HIV
14 infected.

15 (10) The results of a test for HIV or an antibody to HIV
16 conducted under this section ~~shall~~ **must** be disclosed by the
17 department under section 67b.

18 (11) The deputy director of the correctional facilities
19 administration shall take steps to ensure that all ~~prisoners~~
20 **incarcerated individuals** who receive HIV testing receive counseling
21 regarding AIDS including, at a minimum, treatment, transmission,
22 and protective measures.

23 (12) The department, in conjunction with the department of
24 ~~community health~~ **and human services**, shall develop and implement a
25 comprehensive AIDS education program designed specifically for
26 correctional environments. The program ~~shall~~ **must** be conducted by
27 the bureau within the department responsible for health care, for
28 staff and for ~~prisoners~~ **incarcerated individuals** at each state
29 correctional facility.

1 (13) As used in this section **and section 67c:**

2 (a) "AIDS" means acquired immunodeficiency syndrome.

3 (b) "HIV" means human immunodeficiency virus.

4 (c) "Positive test result" means a double positive enzyme-
5 linked immunosorbent assay test, combined with a positive western
6 blot assay test, or a positive test under an HIV test that is
7 considered reliable by the ~~federal centers for disease control and~~
8 **Centers for Disease Control and Prevention and** is approved by the
9 department of ~~community health~~ **and human services.**

10 (d) "Post-traumatic prison disorder" means the diagnosis of
11 post-traumatic stress disorder in the Diagnostic and Statistical
12 Manual of Mental Disorders, fifth edition, published by the
13 American Psychiatric Association, including, but not limited to,
14 resulting from an incarcerated individual's exposure to a stressful
15 event that occurred in a correctional facility.

16 (e) "Significant diagnosis" means post-traumatic prison
17 disorder, anxiety, depression, bipolar, phobia, schizophrenia,
18 substance abuse and addiction disorder, learning and educational
19 disability, suicidal tendency, and any other medically recognized
20 mental or behavioral health disorder.

21 Sec. 67c. (1) Beginning 6 months after the psychiatric
22 examination under section 67, the department shall screen an
23 incarcerated individual for a significant diagnosis not less than
24 every 6 months that the individual is incarcerated.

25 (2) If the psychiatric examination under section 67 or the
26 screening under subsection (1) demonstrate that an incarcerated
27 individual has a significant diagnosis, the department shall
28 provide that individual with medically appropriate and culturally
29 sensitive treatment and services that meet the needs of the

1 individual. The treatment and services offered under this
2 subsection may include, but are not limited to, all of the
3 following:

4 (a) Therapeutic programs, including, but not limited to, art
5 therapy, animal-assisted therapy, hypnotherapy, music therapy, and
6 trauma-focused cognitive therapy.

7 (b) Family counseling and individual counseling.

8 (c) Learning programs for learning disabilities, if
9 applicable.

10 (d) Group therapy.

11 (e) Medication, if applicable.

12 (3) The department may contract with vendors to provide the
13 treatment and services described under subsection (2). A vendor
14 described under this subsection must meet the requirements under
15 subsection (4).

16 (4) In providing treatment and services under this section, a
17 vendor must utilize experienced and culturally sensitive
18 therapists, psychiatrists, psychologists, social workers,
19 individuals from grassroots organizations, and nurses who have
20 experience working with patients experiencing trauma.

21 (5) Not later than April 1, 2026, and annually thereafter, the
22 department shall submit a report of the following information to
23 the standing committees of the senate and of the house of
24 representatives that consider matters pertaining to criminal
25 justice and to appropriations for the department of corrections:

26 (a) The number of incarcerated individuals receiving treatment
27 or services under this section.

28 (b) The number of incarcerated individuals provided with an
29 educational program under section 33.

1 (c) The number of incarcerated individuals who do not have a
2 high school diploma or a high school equivalency certificate and
3 are not provided an educational program under section 33 at the
4 time of the report.

5 Sec. 67d. (1) The department shall train each of the
6 department's employees on all of the following topics:

7 (a) Basic competencies in responding to mental health crises
8 or trauma, including, but not limited to, de-escalation techniques.

9 (b) Information on how employee interactions affect the mental
10 health of an incarcerated individual.

11 (c) Techniques for minimizing the chances of retraumatizing
12 individuals who have a history of trauma.

13 (d) Skills to recognize a potential suicide and prevent the
14 suicide.

15 (e) Interacting with incarcerated individuals in a culturally
16 sensitive manner.

17 (2) As used in this section, "employee" means an individual
18 who is employed by or under contract to the department.