

SENATE BILL NO. 322

May 03, 2023, Introduced by Senators WOJNO, IRWIN, BAYER, CHANG, POLEHANKI, GEISS and CAVANAGH and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1953 PA 232, entitled "Corrections code of 1953," by amending sections 33e and 34 (MCL 791.233e and 791.234), section 33e as amended by 2022 PA 28 and section 34 as amended by 2019 PA 14, and by adding section 34e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 33e. (1) The department shall develop parole guidelines
2 that are consistent with section 33(1) (a) ~~to~~**for both of the**
3 following:

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

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

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

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

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

13 (c) The prisoner's institutional conduct.

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

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

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

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

25 (b) The prisoner's age.

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

29 (5) The department shall promulgate rules under the

1 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
2 24.328, that prescribe the parole guidelines.

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

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

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

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

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

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

29 (e) There is objective evidence of post-sentencing conduct,

1 not already scored under the parole guidelines, that the prisoner
2 would present a high risk to public safety if paroled.

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

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

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

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

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

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

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

29 (9) Unless a waiver is issued under subsection (10), the

1 parole board shall conduct a review of a prisoner, except for a
2 prisoner serving a life sentence, who has been denied parole as
3 follows:

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

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

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

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

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

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

24 (d) Unique circumstances and factors contributed to the
25 decision to deny the prisoner parole and to waive the parole review
26 process under subsection (9).

27 (11) Not less than once every 2 years, the department shall
28 review the correlation between the implementation of the parole
29 guidelines and the recidivism rate of paroled prisoners, and shall

1 submit to the joint committee on administrative rules any proposed
2 revisions to the administrative rules that the department considers
3 appropriate after conducting the review.

4 (12) By March 1 of each year, the department shall report to
5 the standing committees of the senate and the house of
6 representatives having jurisdiction of corrections issues all of
7 the following information:

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

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

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

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

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

27 (i) Homicide.

28 (ii) Sexual offense.

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

1 offense.

2 (iv) A nonassaultive offense.

3 (v) A controlled substance offense.

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

8 (i) Less than 1 year.

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

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

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

12 (v) Four or more years.

13 (g) The number of prisoners issued a waiver under subsection
14 (10).

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

21 (14) Subsections (6), (7), and (8), as amended or added by
22 2018 PA 339, apply only to prisoners whose controlling offense was
23 committed on or after December 12, 2018. Subsections (7) and (8) do
24 not apply to a prisoner serving a life sentence, regardless of the
25 date of ~~his or her~~ **the prisoner's** controlling offense.

26 Sec. 34. (1) Except for a prisoner granted parole under
27 section 35(10) or as provided in section 34a, a prisoner sentenced
28 to an indeterminate sentence and confined in a state correctional
29 facility with a minimum in terms of years other than a prisoner

1 subject to disciplinary time is subject to the jurisdiction of the
2 parole board when the prisoner has served a period of time equal to
3 the minimum sentence imposed by the court for the crime of which ~~he~~
4 ~~or she~~ **the prisoner** was convicted, less good time and disciplinary
5 credits, if applicable.

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

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

27 (4) Except for a prisoner granted parole under section 35(10),
28 if a prisoner subject to disciplinary time is sentenced for
29 consecutive terms, whether received at the same time or at any time

1 during the life of the original sentence, the parole board has
2 jurisdiction over the prisoner for purposes of parole when the
3 prisoner has served the total time of the added minimum terms. The
4 maximum terms of the sentences must be added to compute the new
5 maximum term under this subsection, and discharge must be issued
6 only after the total of the maximum sentences has been served,
7 unless the prisoner is paroled and discharged upon satisfactory
8 completion of the parole.

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

15 (6) ~~A~~ **Except as provided under sections 27a to 27h of chapter**
16 **IX of the code of criminal procedure, 1927 PA 175, MCL 769.27c, a**
17 prisoner sentenced to imprisonment for life for any of the
18 following is not eligible for parole and is instead subject to the
19 provisions of section 44 or 44a:

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

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

24 (c) A violation of chapter XXXIII of the Michigan penal code,
25 1931 PA 328, MCL 750.200 to 750.212a.

26 (d) A violation of section 17764(7) of the public health code,
27 1978 PA 368, MCL 333.17764.

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

1 750.520b.

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

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

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

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

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

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

26 (a) At the conclusion of 10 calendar years of the prisoner's
27 sentence and thereafter as determined by the parole board until the
28 prisoner is paroled, discharged, or deceased, and in accordance
29 with the procedures described in subsection (9), 1 member of the

1 parole board shall interview the prisoner. The interview schedule
2 prescribed in this subdivision applies to all prisoners to whom
3 subsection (7) applies, regardless of the date on which they were
4 sentenced.

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

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

29 (d) A parole granted under subsection (7) must be for a period

1 of not less than 4 years and subject to the usual rules pertaining
2 to paroles granted by the parole board. A parole granted under
3 subsection (7) is not valid until the transcript of the record is
4 filed with the attorney general whose certification of receipt of
5 the transcript must be returned to the office of the parole board
6 within 5 days. Except for medical records protected under section
7 2157 of the revised judicature act of 1961, 1961 PA 236, MCL
8 600.2157, the file of a prisoner granted a parole under subsection
9 (7) is a public record.

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

12 (a) The prisoner must be given written notice, not less than
13 30 days before the interview date, stating that the interview will
14 be conducted.

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

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

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

29 (b) Whether the violation was committed by the individual in

1 concert with 5 or more other individuals.

2 (c) Any of the following:

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

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

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

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

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

29 (12) If the sentencing judge, or ~~his or her~~ **the judge's**

1 successor in office, determines on the record that a prisoner
2 described in subsection (7) (b) or (c) sentenced to imprisonment for
3 life for violating, or attempting or conspiring to violate, section
4 7401(2) (a) (i) of the public health code, 1978 PA 368, MCL 333.7401,
5 has cooperated with law enforcement, the prisoner is subject to the
6 jurisdiction of the parole board and may be released on parole as
7 provided in subsection (7) (b) or (c) 2-1/2 years earlier than the
8 time otherwise indicated in subsection (7) (b) or (c). The prisoner
9 is considered to have cooperated with law enforcement if the court
10 determines on the record that the prisoner had no relevant or
11 useful information to provide. The court shall not make a
12 determination that the prisoner failed or refused to cooperate with
13 law enforcement on grounds that the defendant exercised ~~his or her~~
14 **the defendant's** constitutional right to trial by jury. If the court
15 determines at sentencing that the defendant cooperated with law
16 enforcement, the court shall include its determination in the
17 judgment of sentence.

18 (13) Except for a prisoner granted parole under section 35(10)
19 and notwithstanding subsections (1) and (2), a prisoner convicted
20 of violating, or attempting or conspiring to violate, section
21 7401(2) (a) (i) or 7403(2) (a) (i) of the public health code, 1978 PA
22 368, MCL 333.7401 and 333.7403, whose offense occurred before March
23 1, 2003, and who was sentenced to a term of years, is eligible for
24 parole after serving 20 years of the sentence imposed for the
25 violation if the individual has another serious crime or 17-1/2
26 years of the sentence if the individual does not have another
27 conviction for a serious crime, or after serving the minimum
28 sentence imposed for that violation, whichever is less.

29 (14) Except for a prisoner granted parole under section 35(10)

1 and notwithstanding subsections (1) and (2), a prisoner who was
2 convicted of violating, or attempting or conspiring to violate,
3 section 7401(2)(a)(ii) or 7403(2)(a)(ii) of the public health code,
4 1978 PA 368, MCL 333.7401 and 333.7403, whose offense occurred
5 before March 1, 2003, and who was sentenced according to those
6 sections as they existed before March 1, 2003, is eligible for
7 parole after serving the minimum of each sentence imposed for that
8 violation or 10 years of each sentence imposed for that violation,
9 whichever is less.

10 (15) Except for a prisoner granted parole under section 35(10)
11 and notwithstanding subsections (1) and (2), a prisoner who was
12 convicted of violating, or attempting or conspiring to violate,
13 section 7401(2)(a)(iii) or 7403(2)(a)(iii) of the public health code,
14 1978 PA 368, MCL 333.7401 and 333.7403, whose offense occurred
15 before March 1, 2003, and who was sentenced according to those
16 sections as they existed before March 1, 2003, is eligible for
17 parole after serving the minimum of each sentence imposed for that
18 violation or 5 years of each sentence imposed for that violation,
19 whichever is less.

20 (16) Except for a prisoner granted parole under section 35(10)
21 and notwithstanding subsections (1) and (2), a prisoner who was
22 convicted of violating, or attempting or conspiring to violate,
23 section 7401(2)(a)(iv) or 7403(2)(a)(iv) of the public health code,
24 1978 PA 368, MCL 333.7401 and 333.7403, whose offense occurred
25 before March 1, 2003, who was sentenced according to those sections
26 of law as they existed before March 1, 2003 to consecutive terms of
27 imprisonment for 2 or more violations of section 7401(2)(a) or
28 7403(2)(a) of the public health code, 1978 PA 368, MCL 333.7401 and
29 333.7403, is eligible for parole after serving 1/2 of the minimum

1 sentence imposed for each violation of section 7401(2) (a) (iv) or
2 7403(2) (a) (iv) of the public health code, 1978 PA 368, MCL 333.7401
3 and 333.7403. This subsection applies only to sentences imposed for
4 violations of section 7401(2) (a) (iv) or 7403(2) (a) (iv) of the public
5 health code, 1978 PA 368, MCL 333.7401 and 333.7403, and does not
6 apply if the sentence was imposed for a conviction for a new
7 offense committed while the individual was on probation or parole.

8 (17) Except for a prisoner granted parole under section 35(10)
9 and notwithstanding subsections (1) and (2), a prisoner who was
10 convicted of violating, or attempting or conspiring to violate,
11 section 7401(2) (a) (ii) or (iii) or 7403(2) (a) (ii) or (iii) of the public
12 health code, 1978 PA 368, MCL 333.7401 and 333.7403, who had a
13 prior conviction for a violation of section 7401(2) (a) (ii) or (iii) or
14 7403(2) (a) (ii) or (iii) of the public health code, 1978 PA 368, MCL
15 333.7401 and 333.7403, and who was sentenced to life without parole
16 under section 7413(1) of the public health code, 1978 PA 368, MCL
17 333.7413, according to that section as it existed before March 28,
18 2018 is eligible for parole after serving 5 years of each sentence
19 imposed for that violation.

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

1 is considering a prisoner for parole under section 35(10) at the
2 same time it provides notice to the prosecuting attorney under this
3 subsection.

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

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

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

29 (b) The sentencing judge or the judge's successor shall

1 determine whether the prisoner is eligible for parole as a result
2 of being medically frail.

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

11 (22) As used in this section:

12 (a) "Medically frail" means that term as defined in section
13 35(22).

14 (b) "Serious crime" means violating or conspiring to violate
15 article 7 of the public health code, 1978 PA 368, MCL 333.7101 to
16 333.7545, that is punishable by imprisonment for more than 4 years,
17 or an offense against a person in violation of section 83, 84, 86,
18 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d,
19 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA 328,
20 MCL 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.316,
21 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b,
22 750.520c, 750.520d, 750.520g, 750.529, 750.529a, and 750.530.

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

25 **Sec. 34e. The department shall provide notice to a prisoner**
26 **whose minimum term of imprisonment is 10 or more years as provided**
27 **under section 27b of chapter IX of the code of criminal procedure,**
28 **1927 PA 175, 769.27b.**

29 Enacting section 1. This amendatory act does not take effect

1 unless Senate Bill No. 321 of the 102nd Legislature is enacted into
2 law.