

# SENATE BILL NO. 864

May 07, 2024, Introduced by Senators MCBROOM, VICTORY, GEISS, IRWIN, CHANG, SHINK, SANTANA, BAYER, CAVANAGH and WOJNO 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 33, 33c, 34, and 35 (MCL 791.233, 791.233c, 791.234, and 791.235), sections 33 and 34 as amended by 2019 PA 14, section 33c as added by 1994 PA 217, and section 35 as amended by 2019 PA 13.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

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

6 (b) Except as provided in ~~section~~**sections** 34a and ~~section~~  
7 35(10), a parole must not be granted to a prisoner other than a  
8 prisoner subject to disciplinary time until the prisoner has served  
9 the minimum term imposed by the court less allowances for good time  
10 or special good time to which the prisoner may be entitled by  
11 statute, except that a prisoner other than a prisoner subject to  
12 disciplinary time is eligible for parole before the expiration of  
13 his or her minimum term of imprisonment if the sentencing judge, or  
14 the judge's successor in office, gives written approval of the  
15 parole of the prisoner before the expiration of the minimum term of  
16 imprisonment.

17 (c) Except as provided in ~~section~~**sections** 34a and ~~section~~  
18 35(10), and notwithstanding the provisions of subdivision (b), a  
19 parole must not be granted to a prisoner other than a prisoner  
20 subject to disciplinary time sentenced for the commission of a  
21 crime described in section 33b(a) to (cc) until the prisoner has  
22 served the minimum term imposed by the court less an allowance for  
23 disciplinary credits as provided in section 33(5) of 1893 PA 118,  
24 MCL 800.33. A prisoner described in this subdivision is not  
25 eligible for special parole.

26 (d) Except as provided in ~~section~~**subdivision (g) and sections**  
27 34a and ~~section~~35(10), a parole must not be granted to a prisoner  
28 subject to disciplinary time until the prisoner has served the  
29 minimum term imposed by the court.

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

7           (f) Except as provided in section 35(10), a prisoner whose  
8 minimum term of imprisonment is 2 years or more must not be  
9 released on parole unless he or she has either earned a high school  
10 diploma or a high school equivalency certificate. The director of  
11 the department may waive the restriction imposed by this  
12 subdivision as to any prisoner who is over the age of 65 or who was  
13 gainfully employed immediately before committing the crime for  
14 which he or she was incarcerated. The department may also waive the  
15 restriction imposed by this subdivision as to any prisoner who has  
16 a learning disability, who does not have the necessary proficiency  
17 in English, or who for some other reason that is not the fault of  
18 the prisoner is unable to successfully complete the requirements  
19 for a high school diploma or a high school equivalency certificate.  
20 If the prisoner does not have the necessary proficiency in English,  
21 the department shall provide English language training for that  
22 prisoner necessary for the prisoner to begin working toward the  
23 completion of the requirements for a high school equivalency  
24 certificate. This subdivision applies to prisoners sentenced for  
25 crimes committed after December 15, 1998. In providing an  
26 educational program leading to a high school diploma or a high  
27 school equivalency certificate, the department shall give priority  
28 to prisoners sentenced for crimes committed on or before December  
29 15, 1998.

1           (g) Except as provided in sections 34a and 35(10), a parole  
2 must not be granted to a prisoner subject to disciplinary time who  
3 was sentenced on or after the effective date of the amendatory act  
4 that added this subdivision until the prisoner has served the  
5 minimum term imposed by the court less an allowance for  
6 productivity credits as provided in section 33a of 1893 PA 118, MCL  
7 800.33a.

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

12           (3) The parole board may promulgate rules under the  
13 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
14 24.328, that are not inconsistent with this act with respect to  
15 conditions imposed upon prisoners paroled under this act.

16           Sec. 33c. As used in this act: ~~,"prisoner~~

17           (a) **"Limited prisoner subject to disciplinary time"** means a  
18 **prisoner subject to disciplinary time who is sentenced before the**  
19 **effective date of the amendatory act that added this subdivision.**

20           (b) **"Prisoner** subject to disciplinary time" means that term as  
21 defined in section 34 of ~~Act No. 118 of the Public Acts of 1893,~~  
22 ~~being section 800.34 of the Michigan Compiled Laws.~~**1893 PA 118, MCL**  
23 **800.34.**

24           Sec. 34. (1) Except for a prisoner granted parole under  
25 section 35(10) or as provided in section 34a, a prisoner sentenced  
26 to an indeterminate sentence and confined in a state correctional  
27 facility with a minimum in terms of years other than a **limited**  
28 **prisoner subject to disciplinary time** is subject to the  
29 jurisdiction of the parole board when the prisoner has served a

1 period of time equal to the minimum sentence imposed by the court  
2 for the crime of which he or she was convicted, less good time, ~~and~~  
3 disciplinary credits, **and productivity credits**, if applicable.

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

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

26 (4) Except for a prisoner granted parole under section 35(10),  
27 if a **limited** prisoner subject to disciplinary time is sentenced for  
28 consecutive terms, whether received at the same time or at any time  
29 during the life of the original sentence, the parole board has

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

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

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

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

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

20 (c) A violation of chapter XXXIII of the Michigan penal code,  
21 1931 PA 328, MCL 750.200 to 750.212a.

22 (d) A violation of section 17764(7) of the public health code,  
23 1978 PA 368, MCL 333.17764.

24 (e) First degree criminal sexual conduct in violation of  
25 section 520b(2)(c) of the Michigan penal code, 1931 PA 328, MCL  
26 750.520b.

27 (f) Any other violation for which parole eligibility is  
28 expressly denied under ~~state~~**a law of this state**.

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

1 a prisoner sentenced to imprisonment for life, other than a  
2 prisoner described in subsection (6), is subject to the  
3 jurisdiction of the parole board and may be placed on parole  
4 according to the conditions prescribed in subsection (8) if he or  
5 she meets any of the following criteria:

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

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

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

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

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

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

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

25 (d) A parole granted under subsection (7) must be for a period  
26 of not less than 4 years and subject to the usual rules pertaining  
27 to paroles granted by the parole board. A parole granted under  
28 subsection (7) is not valid until the transcript of the record is  
29 filed with the attorney general whose certification of receipt of

1 the transcript must be returned to the office of the parole board  
2 within 5 days. Except for medical records protected under section  
3 2157 of the revised judicature act of 1961, 1961 PA 236, MCL  
4 600.2157, the file of a prisoner granted a parole under subsection  
5 (7) is a public record.

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

8 (a) The prisoner must be given written notice, not less than  
9 30 days before the interview date, stating that the interview will  
10 be conducted.

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

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

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

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

27 (c) Any of the following:

28 (i) Whether the individual was a principal administrator,  
29 organizer, or leader of an entity that the individual knew or had

1 reason to know was organized, in whole or in part, to commit  
2 violations of section 7401 or 7403 of the public health code, 1978  
3 PA 368, MCL 333.7401 and 333.7403, and whether the violation for  
4 which the individual was convicted was committed to further the  
5 interests of that entity.

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

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

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

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

25 (12) If the sentencing judge, or his or her successor in  
26 office, determines on the record that a prisoner described in  
27 subsection (7) (b) or (c) sentenced to imprisonment for life for  
28 violating, or attempting or conspiring to violate, section  
29 7401(2) (a) (i) of the public health code, 1978 PA 368, MCL 333.7401,

1 has cooperated with law enforcement, the prisoner is subject to the  
2 jurisdiction of the parole board and may be released on parole as  
3 provided in subsection (7) (b) or (c) 2-1/2 years earlier than the  
4 time otherwise indicated in subsection (7) (b) or (c). The prisoner  
5 is considered to have cooperated with law enforcement if the court  
6 determines on the record that the prisoner had no relevant or  
7 useful information to provide. The court shall not make a  
8 determination that the prisoner failed or refused to cooperate with  
9 law enforcement on grounds that the defendant exercised his or her  
10 constitutional right to trial by jury. If the court determines at  
11 sentencing that the defendant cooperated with law enforcement, the  
12 court shall include its determination in the judgment of sentence.

13 (13) Except for a prisoner granted parole under section 35(10)  
14 and notwithstanding subsections (1) and (2), a prisoner convicted  
15 of violating, or attempting or conspiring to violate, section  
16 7401(2) (a) (i) or 7403(2) (a) (i) of the public health code, 1978 PA  
17 368, MCL 333.7401 and 333.7403, whose offense occurred before March  
18 1, 2003, and who was sentenced to a term of years, is eligible for  
19 parole after serving 20 years of the sentence imposed for the  
20 violation if the individual has another serious crime or 17-1/2  
21 years of the sentence if the individual does not have another  
22 conviction for a serious crime, or after serving the minimum  
23 sentence imposed for that violation, whichever is less.

24 (14) Except for a prisoner granted parole under section 35(10)  
25 and notwithstanding subsections (1) and (2), a prisoner who was  
26 convicted of violating, or attempting or conspiring to violate,  
27 section 7401(2) (a) (ii) or 7403(2) (a) (ii) of the public health code,  
28 1978 PA 368, MCL 333.7401 and 333.7403, whose offense occurred  
29 before March 1, 2003, and who was sentenced according to those

1 sections as they existed before March 1, 2003, is eligible for  
2 parole after serving the minimum of each sentence imposed for that  
3 violation or 10 years of each sentence imposed for that violation,  
4 whichever is less.

5 (15) Except for a prisoner granted parole under section 35(10)  
6 and notwithstanding subsections (1) and (2), a prisoner who was  
7 convicted of violating, or attempting or conspiring to violate,  
8 section 7401(2)(a)(iii) or 7403(2)(a)(iii) of the public health code,  
9 1978 PA 368, MCL 333.7401 and 333.7403, whose offense occurred  
10 before March 1, 2003, and who was sentenced according to those  
11 sections as they existed before March 1, 2003, is eligible for  
12 parole after serving the minimum of each sentence imposed for that  
13 violation or 5 years of each sentence imposed for that violation,  
14 whichever is less.

15 (16) Except for a prisoner granted parole under section 35(10)  
16 and notwithstanding subsections (1) and (2), a prisoner who was  
17 convicted of violating, or attempting or conspiring to violate,  
18 section 7401(2)(a)(iv) or 7403(2)(a)(iv) of the public health code,  
19 1978 PA 368, MCL 333.7401 and 333.7403, whose offense occurred  
20 before March 1, 2003, who was sentenced according to those sections  
21 of law as they existed before March 1, 2003 to consecutive terms of  
22 imprisonment for 2 or more violations of section 7401(2)(a) or  
23 7403(2)(a) of the public health code, 1978 PA 368, MCL 333.7401 and  
24 333.7403, is eligible for parole after serving 1/2 of the minimum  
25 sentence imposed for each violation of section 7401(2)(a)(iv) or  
26 7403(2)(a)(iv) of the public health code, 1978 PA 368, MCL 333.7401  
27 and 333.7403. This subsection applies only to sentences imposed for  
28 violations of section 7401(2)(a)(iv) or 7403(2)(a)(iv) of the public  
29 health code, 1978 PA 368, MCL 333.7401 and 333.7403, and does not

1 apply if the sentence was imposed for a conviction for a new  
2 offense committed while the individual was on probation or parole.

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

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

28 (19) The prosecuting attorney or victim or, in the case of a  
29 homicide, the victim's immediate family, may object to the parole

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

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

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

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

27 (21) The decision of the sentencing judge or the judge's  
28 successor on a motion filed under subsection (19) is binding on the  
29 parole board with respect to whether a prisoner must be considered

1 medically frail or not. However, the decision of the sentencing  
2 judge or the judge's successor is subject to appeal by leave to the  
3 court of appeals granted to the department, the prosecuting  
4 attorney, or the victim or victim's immediate family in the case of  
5 a homicide.

6 (22) As used in this section:

7 (a) "Medically frail" means that term as defined in section  
8 35(22).

9 (b) "Serious crime" means violating or conspiring to violate  
10 article 7 of the public health code, 1978 PA 368, MCL 333.7101 to  
11 333.7545, that is punishable by imprisonment for more than 4 years,  
12 or an offense against a person in violation of section 83, 84, 86,  
13 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d,  
14 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA 328,  
15 MCL 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.316,  
16 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b,  
17 750.520c, 750.520d, 750.520g, 750.529, 750.529a, and 750.530.

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

20 Sec. 35. (1) The release of a prisoner on parole must be  
21 granted solely upon the initiative of the parole board. There is no  
22 entitlement to parole. The parole board may grant a parole without  
23 interviewing the prisoner if, after evaluating the prisoner  
24 according to the parole guidelines, the parole board determines  
25 that the prisoner has a high probability of being paroled and the  
26 parole board therefore intends to parole the prisoner. Except as  
27 provided in subsection (2), a prisoner must not be denied parole  
28 without an interview before 1 member of the parole board. The  
29 interview must be conducted at least 1 month before the expiration

1 of the prisoner's minimum sentence less applicable good time ~~and~~  
2 **credits**, disciplinary credits, **and productivity credits** for a  
3 prisoner eligible for good time **credits**, ~~and~~ disciplinary credits,  
4 **or productivity credits**, or at least 1 month before the expiration  
5 of the prisoner's minimum sentence for a **limited** prisoner subject  
6 to disciplinary time. The parole board shall consider any statement  
7 made to the parole board by a crime victim under the William Van  
8 Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to  
9 780.834, or under any other provision of law. The parole board  
10 shall not consider any of the following factors in making a parole  
11 determination:

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

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

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

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

27 (a) A prisoner's marital history.

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

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

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

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

26 (7) ~~At least~~ **Not less than** 90 days before the expiration of  
27 the prisoner's minimum sentence less applicable good time ~~and~~  
28 **credits, disciplinary credits, and productivity credits** for a  
29 prisoner eligible for good time **credits, or** disciplinary credits,

1 **or productivity credits**, or at least 90 days before the expiration  
2 of the prisoner's minimum sentence for a **limited** prisoner subject  
3 to disciplinary time, or the expiration of a 12-month continuance  
4 for any prisoner, or at the request of the parole board for a  
5 prisoner being considered for parole under subsection (10), the  
6 appropriate institutional staff shall prepare a parole eligibility  
7 report. The parole eligibility report is considered pertinent  
8 information for purposes of subsection (5). The report must include  
9 all of the following:

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

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

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

16 (d) Whether the prisoner fully cooperated with this state by  
17 providing complete financial information as required under section  
18 3a of the state correctional facility reimbursement act, 1935 PA  
19 253, MCL 800.403a.

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

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

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

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

28 (9) Psychological evaluations performed at the request of the  
29 parole board to assist it in reaching a decision on the release of

1 a prisoner may be performed by the same person who provided the  
2 prisoner with therapeutic treatment, unless a different person is  
3 requested by the prisoner or parole board.

4 (10) Except for a prisoner who was convicted of any crime that  
5 is punishable by a term of life imprisonment without parole or of a  
6 violation of section 520b of the Michigan penal code, 1931 PA 328,  
7 MCL 750.520b, the parole board may grant a medical parole for a  
8 prisoner determined to be medically frail. A decision to grant a  
9 medical parole must be initiated on the recommendation of the  
10 bureau of health care services. If the bureau of health care  
11 services believes that the prisoner is medically frail, the bureau  
12 shall utilize a specialist in the appropriate field of medicine,  
13 who is not employed by the department, to evaluate the condition of  
14 the prisoner and to report on that condition to the bureau. The  
15 parole board, in consultation with the bureau of health care  
16 services, shall determine whether the prisoner is medically frail.  
17 If the parole board determines that a prisoner is medically frail  
18 and is going to be considered for parole under this subsection, the  
19 parole board shall provide the notice and medical records required  
20 under section 34(18). Unless the prosecutor of the county from  
21 which the prisoner was committed files a motion under section  
22 34(19), the parole board may grant parole to a prisoner who is  
23 determined to be medically frail. If a motion is filed under  
24 section 34(19) and the court finds that the prisoner is eligible  
25 for parole as a result of being medically frail, and if no  
26 additional appeals are pending, the parole board may grant parole  
27 to the prisoner under this subsection. The requirements of sections  
28 33(1)(b), (c), (d), and (f), 33b, and 34(1), (2), (3), (4), (7),  
29 (13), (14), (15), (16), and (17) do not apply to a parole granted

1 under this subsection.

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

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

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

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

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

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

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

27 (d) A parolee who violates the terms of his or her parole or  
28 is determined to no longer meet the definition of medically frail  
29 may be transferred to a setting more appropriate for the medical

1 needs of the parolee or be subject to the parole violation process  
2 under sections 38, 39, 39a, and 40a as determined by the parole  
3 board and the department.

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

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

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

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

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

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

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

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

29 (15) The department and the parole board shall ensure that the

1 placement and terms and conditions of a parole granted under  
2 subsection (10) do not violate any other state or federal  
3 regulations.

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

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

18 (18) The process for a parole determination under subsection  
19 (10) does not change or affect any of the rights afforded to a  
20 victim under the William Van Regenmorter crime victim's rights act,  
21 1985 PA 87, MCL 780.751 to 780.834.

22 (19) The department shall file a petition to the appropriate  
23 court under section 434 of the mental health code, 1974 PA 258, MCL  
24 330.1434, for any prisoner being paroled or being released after  
25 serving his or her maximum sentence whom the department considers  
26 to be a person requiring treatment. The parole board shall require  
27 mental health treatment as a special condition of parole for any  
28 parolee whom the department has determined to be a person requiring  
29 treatment whether or not the petition filed for that prisoner is

1 granted by the court. As used in this subsection, "person requiring  
2 treatment" means that term as defined in section 401 of the mental  
3 health code, 1974 PA 258, MCL 330.1401.

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

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

12 (22) As used in this section:

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

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

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

29 (i) A permanent or terminal physical disability or serious and

1 complex medical condition resulting in the inability to do 1 or  
2 more of the following without personal assistance:

3 (A) Walk.

4 (B) Stand.

5 (C) Sit.

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

11 Enacting section 1. This amendatory act does not take effect  
12 unless Senate Bill No. 861 of the 102nd Legislature is enacted into  
13 law.