



SENATE BILL No. 290

February 16, 1995, Introduced by Senators BERRYMAN,
KOIVISTO, HART, CHERRY, MILLER, DEBEAUSSAERT, PETERS
and DINGELL and referred to the Committee on Judiciary.

A bill to amend sections 33, 34, and 35 of Act No. 232 of
the Public Acts of 1953, entitled as amended

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

sections 33 and 35 as amended by Act No. 217 of the Public Acts
of 1994 and section 34 as amended by Act No. 345 of the Public

Acts of 1994, being sections 791.233, 791.234, and 791.235 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 33, 34, and 35 of Act No. 232 of the
2 Public Acts of 1953, sections 33 and 35 as amended by Act No. 217
3 of the Public Acts of 1994 and section 34 as amended by Act
4 No. 345 of the Public Acts of 1994, being sections 791.233,
5 791.234, and 791.235 of the Michigan Compiled Laws, are amended
6 to read as follows:

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

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

14 (b) Except as provided in section 34a, a parole shall not be
15 granted to a prisoner other than a prisoner subject to disci-
16 plinary time until the prisoner has served the minimum term
17 imposed by the court less allowances for good time or special
18 good time to which the prisoner may be entitled by statute,
19 except that a prisoner other than a prisoner subject to disci-
20 plinary time is eligible for parole before the expiration of his
21 or her minimum term of imprisonment whenever the sentencing
22 judge, or the judge's successor in office, gives written approval
23 of the parole of the prisoner before the expiration of the
24 minimum term of imprisonment.

1 (c) Except as provided in section 34a, and notwithstanding
2 the provisions of subdivision (b), a parole shall not be granted
3 to a prisoner other than a prisoner subject to disciplinary time
4 sentenced for the commission of a crime described in
5 section 33b(a) to (cc) until the prisoner has served the minimum
6 term imposed by the court less an allowance for disciplinary
7 credits as provided in section 33(5) of Act No. 118 of the Public
8 Acts of 1893, being section 800.33 of the Michigan Compiled
9 Laws. A prisoner described in this subdivision is not eligible
10 for special parole.

11 (d) Except as provided in section 34a, a parole shall not be
12 granted to a prisoner subject to disciplinary time until the
13 prisoner has served the minimum term imposed by the court, plus
14 any disciplinary time accumulated pursuant to section 34 of Act
15 No. 118 of the Public Acts of 1893, being section 800.34 of the
16 Michigan Compiled Laws.

17 (E) NOTWITHSTANDING SUBDIVISIONS (B) TO (D), A PAROLE SHALL
18 NOT BE GRANTED TO A PRISONER WHO COMMITTED A SPECIFIED FELONY AS
19 DEFINED IN SECTION 10A OF CHAPTER IX OF THE CODE OF CRIMINAL PRO-
20 CEDURE, ACT NO. 175 OF THE PUBLIC ACTS OF 1927, BEING
21 SECTION 769.10A OF THE MICHIGAN COMPILED LAWS, UNTIL THE PRISONER
22 HAS SERVED 85% OF THE MAXIMUM TERM IMPOSED BY THE COURT, SUBJECT
23 TO ANY APPLICABLE DISCIPLINARY TIME.

24 (F) ~~(e)~~ A prisoner shall not be released on parole until
25 the parole board has satisfactory evidence that arrangements have
26 been made for such honorable and useful employment as the
27 prisoner is capable of performing, for the prisoner's education,

1 or for the prisoner's care if the prisoner is mentally or
2 physically ill or incapacitated.

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

7 (3) Pursuant to the administrative procedures act of 1969,
8 Act No. 306 of the Public Acts of 1969, ~~as amended,~~ being sec-
9 tions 24.201 to 24.328 of the Michigan Compiled Laws, the parole
10 board may promulgate rules not inconsistent with this act with
11 respect to conditions to be imposed upon prisoners paroled under
12 this act.

13 (4) THE PROVISIONS OF THIS SECTION REGARDING PRISONERS
14 SUBJECT TO DISCIPLINARY TIME TAKE EFFECT BEGINNING ON THE EFFEC-
15 TIVE DATE OF ACT NO. 217 OF THE PUBLIC ACTS OF 1994, AS PRE-
16 SCRIBED IN ENACTING SECTION 2 OF THAT AMENDATORY ACT.

17 Sec. 34. (1) Except as provided in section 34a, a prisoner
18 sentenced to an indeterminate sentence and confined in a state
19 correctional facility with a minimum in terms of years other than
20 a prisoner subject to disciplinary time is subject to the juris-
21 diction of the parole board when the prisoner has served a period
22 of time equal to the minimum sentence imposed by the court for
23 the crime of which he or she was convicted, less good time and
24 disciplinary credits, if applicable.

25 (2) Except as provided in section 34a, a prisoner subject to
26 disciplinary time sentenced to an indeterminate sentence and
27 confined in a state correctional facility with a minimum in terms

1 of years is subject to the jurisdiction of the parole board when
2 the prisoner has served a period of time equal to the minimum
3 sentence imposed by the court for the crime of which he or she
4 was convicted, plus any disciplinary time accumulated pursuant to
5 section 34 of Act No. 118 of the Public Acts of 1893, being sec-
6 tion 800.34 of the Michigan Compiled Laws.

7 (3) NOTWITHSTANDING SUBSECTION (1) OR (2), A PRISONER WHO
8 COMMITTED A SPECIFIED FELONY AS DEFINED IN SECTION 10A OF CHAPTER
9 IX OF THE CODE OF CRIMINAL PROCEDURE, ACT NO. 175 OF THE PUBLIC
10 ACTS OF 1927, BEING SECTION 769.10A OF THE MICHIGAN COMPILED
11 LAWS, IS SUBJECT TO THE JURISDICTION OF THE PAROLE BOARD WHEN THE
12 PRISONER HAS SERVED A PERIOD OF TIME EQUAL TO 85% OF THE MAXIMUM
13 TERM IMPOSED BY THE COURT, SUBJECT TO ANY APPLICABLE DISCIPLINARY
14 TIME.

15 (4) ~~(3)~~ If a prisoner other than a prisoner subject to
16 disciplinary time is sentenced for consecutive terms, whether
17 received at the same time or at any time during the life of the
18 original sentence, the parole board has jurisdiction over the
19 prisoner for purposes of parole when the prisoner has served the
20 total time of the added minimum terms, less the good time and
21 disciplinary credits allowed by statute. The maximum terms of
22 the sentences shall be added to compute the new maximum term
23 under this subsection, and discharge shall be issued only after
24 the total of the maximum sentences has been served less good time
25 and disciplinary credits, unless the prisoner is paroled and dis-
26 charged upon satisfactory completion of the parole.

1 (5) ~~-(4)-~~ If a prisoner subject to disciplinary time is
2 sentenced for consecutive terms, whether received at the same
3 time or at any time during the life of the original sentence, the
4 parole board has jurisdiction over the prisoner for purposes of
5 parole when the prisoner has served the total time of the added
6 minimum terms, plus any disciplinary time. The maximum terms of
7 the sentences shall be added to compute the new maximum term
8 under this subsection, and discharge shall be issued only after
9 the total of the maximum sentences has been served, unless the
10 prisoner is paroled and discharged upon satisfactory completion
11 of the parole.

12 (6) ~~-(5)-~~ If a prisoner other than a prisoner subject to
13 disciplinary time has 1 or more consecutive terms remaining to
14 serve in addition to the term he or she is serving, the parole
15 board may terminate the sentence the prisoner is presently serv-
16 ing at any time after the minimum term of the sentence has been
17 served.

18 (7) ~~-(6)-~~ A prisoner under sentence for life or for a term
19 of years, other than a prisoner ~~sentenced for life for murder in~~
20 ~~the first degree or sentenced for life or for a minimum term of~~
21 ~~imprisonment for a major controlled substance offense~~ DESCRIBED
22 IN SUBSECTION (8), who has served 10 calendar years of the sen-
23 tence in the case of a prisoner sentenced for a crime committed
24 before October 1, 1992, or who has served 15 calendar years of
25 the sentence in the case of a prisoner sentenced for a crime com-
26 mitted on or after October 1, 1992, is subject to the

1 jurisdiction of the parole board and may be released on parole by
2 the parole board, subject to the following conditions:

3 (a) One member of the parole board shall interview the pris-
4 oner at the conclusion of 10 calendar years of the sentence and
5 every 5 years thereafter until such time as the prisoner is
6 paroled, discharged, or deceased. The interview schedule pre-
7 scribed in this subdivision applies to all prisoners to whom this
8 subsection is applicable, whether sentenced before, on, or after
9 the effective date of the 1992 amendatory act that amended this
10 subdivision.

11 (b) A parole shall not be granted a prisoner so sentenced
12 until after a public hearing held in the manner prescribed for
13 pardons and commutations in sections 44(2)(f) to (h) and 45.
14 Notice of the public hearing shall be given to the sentencing
15 judge, or the judge's successor in office, and parole shall not
16 be granted if the sentencing judge, or the judge's successor in
17 office, files written objections to the granting of the parole
18 within 30 days of receipt of the notice of hearing. The written
19 objections shall be made part of the prisoner's file.

20 (c) A parole granted under this subsection shall be for a
21 period of not less than 4 years and subject to the usual rules
22 pertaining to paroles granted by the parole board. A parole
23 ordered under this subsection is not valid until the transcript
24 of the record is filed with the attorney general whose certifica-
25 tion of receipt of the transcript shall be returnable to the
26 office of the parole board within 5 days. Except for medical
27 records protected under section 2157 of the revised judicature

1 act of 1961, Act No. 236 of the Public Acts of 1961, being
2 section 600.2157 of the Michigan Compiled Laws, the file of a
3 prisoner granted a parole under this subsection is a public
4 record.

5 (d) A parole shall not be granted under this subsection in
6 the case of a prisoner who is otherwise prohibited by law from
7 parole consideration. In such cases the interview procedures in
8 section 44 shall be followed.

9 (8) SUBSECTION (7) DOES NOT APPLY TO THE FOLLOWING
10 PRISONERS:

11 (A) A PRISONER SENTENCED FOR LIFE FOR MURDER IN THE FIRST
12 DEGREE.

13 (B) A PRISONER SENTENCED FOR LIFE OR FOR A MINIMUM TERM OF
14 IMPRISONMENT FOR A MAJOR CONTROLLED SUBSTANCE OFFENSE.

15 (C) A PRISONER SENTENCED TO IMPRISONMENT FOR LIFE UNDER SEC-
16 TION 10A OF CHAPTER IX OF THE CODE OF CRIMINAL PROCEDURE, ACT
17 NO. 175 OF THE PUBLIC ACTS OF 1927, BEING SECTION 769.10A OF THE
18 MICHIGAN COMPILED LAWS.

19 (9) ~~(7)~~ Except as provided in section 34a, a prisoner's
20 release on parole is discretionary with the parole board. The
21 action of the parole board in granting or denying a parole is
22 appealable by the prisoner, the prosecutor of the county from
23 which the prisoner was committed, or the victim of the crime for
24 which the prisoner was convicted. The appeal shall be to the
25 circuit court in the county from which the prisoner was commit-
26 ted, by leave of the court.

1 (10) ~~(8)~~ The provisions of this section regarding
2 prisoners subject to disciplinary time take effect beginning on
3 the effective date of Act No. 217 of the Public Acts of 1994, as
4 prescribed in enacting section 2 of that amendatory act.

5 Sec. 35. (1) The release of a prisoner on parole shall be
6 granted solely upon the initiative of the parole board. The
7 parole board may grant a parole without interviewing the
8 prisoner. However, beginning on the date on which the adminis-
9 trative rules prescribing parole guidelines pursuant to
10 section 33e(5) take effect, the parole board may grant a parole
11 without interviewing the prisoner only if, after evaluating the
12 prisoner according to the parole guidelines, the parole board
13 determines that the prisoner has a high probability of being
14 paroled and the parole board therefore intends to parole the
15 prisoner. Except as provided in subsection (2), a prisoner shall
16 not be denied parole without an interview before 1 member of the
17 parole board. The interview shall be conducted at least 1 month
18 before the expiration of the prisoner's minimum sentence less
19 applicable good time and disciplinary credits for a prisoner eli-
20 gible for good time and disciplinary credits; ~~—~~ or at least 1
21 month before the expiration of the prisoner's minimum sentence
22 plus disciplinary time for a prisoner subject to disciplinary
23 time; OR AT LEAST 1 MONTH BEFORE THE EXPIRATION OF 85% OF THE
24 PRISONER'S MAXIMUM SENTENCE, SUBJECT TO ANY APPLICABLE DISCI-
25 PLINARY TIME, FOR A PRISONER WHO COMMITTED A SPECIFIED FELONY AS
26 DEFINED IN SECTION 10A OF CHAPTER IX OF THE CODE OF CRIMINAL
27 PROCEDURE, ACT NO. 175 OF THE PUBLIC ACTS OF 1927, BEING

1 SECTION 769.10A OF THE MICHIGAN COMPILED LAWS. The parole board
2 shall consider any statement made to the parole board by a crime
3 victim under the crime victim's rights act, Act No. 87 of the
4 Public Acts of 1985, being sections 780.751 to 780.834 of the
5 Michigan Compiled Laws, or under any other provision of law. The
6 parole board shall not consider any of the following factors in
7 making a parole determination:

8 (a) A juvenile record that a court has ordered the depart-
9 ment to expunge.

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

16 (2) Beginning on the date on which the administrative rules
17 prescribing the parole guidelines take effect pursuant to
18 section 33e(5), if, after evaluating a prisoner according to the
19 parole guidelines, the parole board determines that the prisoner
20 has a low probability of being paroled and the parole board
21 therefore does not intend to parole the prisoner, the parole
22 board shall not be required to interview the prisoner before
23 denying parole to the prisoner.

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

26 (a) A prisoner's marital history.

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

3 (4) If an interview is to be conducted, the prisoner shall
4 be sent a notice of intent to conduct an interview at least 1
5 month before the date of the interview. The notice shall state
6 the specific issues and concerns that shall be discussed at the
7 interview and that may be a basis for a denial of parole. A
8 denial of parole shall not be based on reasons other than those
9 stated in the notice of intent to conduct an interview except for
10 good cause stated to the prisoner at or before the interview and
11 in the written explanation required by subsection (12). This
12 subsection does not apply until April 1, 1983.

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

19 (6) A prisoner may waive the right to an interview by 1
20 member of the parole board. The waiver of the right to be inter-
21 viewed shall be given not more than 30 days after the notice of
22 intent to conduct an interview is issued and shall be made in
23 writing. During the interview held pursuant to a notice of
24 intent to conduct an interview, the prisoner may be represented
25 by an individual of his or her choice. The representative shall
26 not be another prisoner or an attorney. A prisoner is not
27 entitled to appointed counsel at public expense. The prisoner or

1 representative may present relevant evidence in support of
2 release. This subsection does not apply until April 1, 1983.

3 (7) At least 90 days before the expiration of the prisoner's
4 minimum sentence less applicable good time and disciplinary cred-
5 its for a prisoner eligible for good time or disciplinary
6 credits; ~~or~~ or at least 90 days before the expiration of the
7 prisoner's minimum sentence plus disciplinary time for a prisoner
8 subject to disciplinary time; ~~OR AT LEAST 90 DAYS BEFORE THE~~
9 EXPIRATION OF 85% OF THE PRISONER'S MAXIMUM SENTENCE SUBJECT TO
10 ANY APPLICABLE DISCIPLINARY TIME FOR A PRISONER WHO COMMITTED A
11 SPECIFIED FELONY AS DEFINED IN SECTION 10A OF CHAPTER IX OF THE
12 CODE OF CRIMINAL PROCEDURE, ACT NO. 175 OF THE PUBLIC ACTS OF
13 1927, BEING SECTION 769.10A OF THE MICHIGAN COMPILED LAWS; or the
14 expiration of a 12-month continuance for any prisoner, a parole
15 eligibility report shall be prepared by appropriate institutional
16 staff. The parole eligibility report shall be considered perti-
17 nent information for purposes of subsection (5). The report
18 shall include all of the following:

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

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

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

26 (d) Whether the prisoner fully cooperated with the state by
27 providing complete financial information as required under

1 section 3a of the state correctional facility reimbursement act,
2 Act No. 253 of the Public Acts of 1935, being section 800.403a of
3 the Michigan Compiled Laws.

4 (8) The preparer of the report shall not include a recommen-
5 dation as to release on parole.

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

11 (10) The parole board may grant a medical parole for a pris-
12 oner determined to be physically or mentally incapacitated. A
13 decision to grant a medical parole shall be initiated upon the
14 recommendation of the bureau of health care services and shall be
15 reached only after a review of the medical, institutional, and
16 criminal records of the prisoner.

17 (11) The department shall submit a petition to the probate
18 court under section 434 of the mental health code, Act No. 258 of
19 the Public Acts of 1974, being section 330.1434 of the Michigan
20 Compiled Laws, for any prisoner being paroled or being released
21 after serving his or her maximum sentence whom the department
22 considers to be a person requiring treatment. The parole board
23 shall require mental health treatment as a special condition of
24 parole for any parolee whom the department has determined to be a
25 person requiring treatment whether or not the petition filed for
26 that prisoner is granted by the probate court. As used in this
27 subsection, "person requiring treatment" means that term as

1 defined in section 401 of Act No. 258 of the Public Acts of 1974,
2 being section 330.1401 of the Michigan Compiled Laws.

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

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

11 (14) THE PROVISIONS OF THIS SECTION REGARDING PRISONERS
12 SUBJECT TO DISCIPLINARY TIME TAKE EFFECT BEGINNING ON THE EFFEC-
13 TIVE DATE OF ACT NO. 217 OF THE PUBLIC ACTS OF 1994, AS PRE-
14 SCRIBED IN ENACTING SECTION 2 OF THAT AMENDATORY ACT.

15 Section 2. This amendatory act shall not take effect unless
16 all of the following bills of the 88th Legislature are enacted
17 into law:

18 (a) Senate Bill No. 291.

19

20 (b) Senate Bill No. 292.

21