

SENATE BILL No. 44

January 24, 2007, Introduced by Senator SCOTT and referred to the Committee on Judiciary.

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending sections 35, 37, and 67 (MCL 791.235, 791.237, and
791.267), section 35 as amended by 1998 PA 315, section 37 as
amended by 1994 PA 217, and section 67 as amended by 1996 PA 565,
and by adding sections 34b and 37a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 34B. (1) EVERY PRISONER SHALL MAKE ALL REASONABLE
2 EFFORTS, WHILE INCARCERATED, TO OBTAIN ANY 2 OF THE IDENTIFICATION
3 DOCUMENTS THAT, IN COMBINATION WITH THE PRISONER IDENTIFICATION
4 CARD ISSUED UNDER SECTION 37(4), WOULD SATISFY THE APPLICATION
5 REQUIREMENTS FOR OBTAINING AN OPERATOR'S LICENSE OR STATE PERSONAL

1 IDENTIFICATION CARD AS ESTABLISHED BY THE SECRETARY OF STATE UNDER
2 SECTION 307 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.307,
3 OR SECTION 1 OF 1972 PA 222, MCL 28.291. A PRISONER'S COOPERATION
4 UNDER THIS SUBSECTION IS A FACTOR THAT IS TO BE CONSIDERED AS PART
5 OF THE PRISONER'S PAROLE ELIGIBILITY REPORT, AS PROVIDED IN SECTION
6 35(7)(E). THIS SUBSECTION APPLIES TO ANY PRISONER WHO BEGINS
7 SERVING A SENTENCE UNDER THE JURISDICTION OF THE DEPARTMENT AFTER
8 THE EFFECTIVE DATE OF THIS SECTION AND ALSO APPLIES, BEGINNING
9 JANUARY 1, 2009, TO ANY PRISONER WHO IS SERVING A SENTENCE OF
10 IMPRISONMENT ON THE EFFECTIVE DATE OF THIS SECTION.

11 (2) EACH PRISONER SHALL BE GIVEN A FORM LISTING THE PERSONAL
12 IDENTIFICATION DOCUMENTS REFERENCED IN SUBSECTION (1). THE FORM
13 SHALL INCLUDE A STATEMENT THAT THE DEPARTMENT WILL ASSIST THE
14 PRISONER IN OBTAINING THE REQUIRED DOCUMENTS. THE FORM SHALL ALSO
15 INCLUDE ANY OTHER INFORMATION THE DEPARTMENT DETERMINES IS
16 NECESSARY. FOR A PRISONER WHO BEGINS SERVING A SENTENCE UNDER THE
17 JURISDICTION OF THE DEPARTMENT AFTER THE EFFECTIVE DATE OF THIS
18 SECTION, THE DEPARTMENT SHALL PROVIDE THE FORM NOT LATER THAN 10
19 DAYS AFTER THE PRISONER ARRIVES AT A RECEPTION CENTER UNDER SECTION
20 67(1). FOR ANY PRISONER WHO IS SERVING A SENTENCE UNDER THE
21 JURISDICTION OF THE DEPARTMENT ON THE EFFECTIVE DATE OF THIS
22 SECTION, THE DEPARTMENT SHALL PROVIDE THE FORM NOT LATER THAN
23 OCTOBER 1, 2008.

24 (3) THE DIRECTOR OF THE DEPARTMENT MAY WAIVE THE REQUIREMENTS
25 OF SUBSECTION (1) FOR ANY PRISONER WHO, FOR ANY REASON THAT IS NOT
26 THE FAULT OF THE PRISONER, IS UNABLE TO COMPLY WITH SUBSECTION (1).

27 (4) THE DEPARTMENT SHALL ASSIST EACH PRISONER IN OBTAINING THE

1 DOCUMENTS REFERENCED IN SUBSECTION (1). A PRISONER MAY EXPEND MONEY
2 FROM HIS OR HER INSTITUTIONAL ACCOUNT TO DEFRAY ANY EXPENSES
3 INCURRED IN OBTAINING THE DOCUMENTS. UPON RELEASE ON PAROLE OR
4 RELEASE WITHOUT PAROLE, THE DEPARTMENT SHALL PROVIDE THE DOCUMENTS
5 OBTAINED TO THE PRISONER.

6 (5) THE DEPARTMENT SHALL ALLOW THE SECRETARY OF STATE TO HAVE
7 ELECTRONIC ACCESS TO PRISONER BIOGRAPHY INFORMATION FOR THE PURPOSE
8 OF VERIFYING THE IDENTITY OF PRISONERS WHO APPLY FOR DRIVER
9 LICENSES OR STATE PERSONAL IDENTIFICATION CARDS.

10 (6) THE REENTRY SUCCESS FUND IS CREATED WITHIN THE STATE
11 TREASURY. THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS
12 FROM ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER
13 SHALL DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL
14 CREDIT TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.
15 MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL REMAIN IN
16 THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

17 (7) THE DEPARTMENT OF CORRECTIONS SHALL EXPEND MONEY FROM THE
18 REENTRY SUCCESS FUND, UPON APPROPRIATION, ONLY FOR THE EXPENSE OF
19 OBTAINING THE DOCUMENTS REFERENCED IN SUBSECTION (1) FOR PRISONERS
20 WHO ARE INDIGENT.

21 Sec. 35. (1) The release of a prisoner on parole shall be
22 granted solely upon the initiative of the parole board. The parole
23 board may grant a parole without interviewing the prisoner.
24 However, beginning ~~on the date on which the administrative rules~~
25 ~~prescribing parole guidelines pursuant to section 33e(5) take~~
26 ~~effect~~ JANUARY 26, 1996, the parole board may grant a parole
27 without interviewing the prisoner only if, after evaluating the

1 prisoner according to the parole guidelines, the parole board
2 determines that the prisoner has a high probability of being
3 paroled and the parole board therefore intends to parole the
4 prisoner. Except as provided in subsection (2), a prisoner shall
5 not be denied parole without an interview before 1 member of the
6 parole board. The interview shall be conducted at least 1 month
7 before the expiration of the prisoner's minimum sentence less
8 applicable good time and disciplinary credits for a prisoner
9 eligible for good time and disciplinary credits, or at least 1
10 month before the expiration of the prisoner's minimum sentence for
11 a prisoner subject to disciplinary time. The parole board shall
12 consider any statement made to the parole board by a crime victim
13 under the **WILLIAM VAN REGENMORTER** crime victim's rights act, 1985
14 PA 87, MCL 780.751 to 780.834, or under any other provision of law.
15 The parole board shall not consider any of the following factors in
16 making a parole determination:

17 (a) A juvenile record that a court has ordered the department
18 to expunge.

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

25 (2) Beginning ~~on the date on which the administrative rules~~
26 ~~prescribing the parole guidelines take effect pursuant to section~~
27 ~~33e(5)~~ **JANUARY 26, 1996**, if, after evaluating a prisoner according

1 to the parole guidelines, the parole board determines that the
2 prisoner has a low probability of being paroled and the parole
3 board therefore does not intend to parole the prisoner, the parole
4 board ~~shall~~ **IS** not ~~be~~ required to interview the prisoner before
5 denying parole to the prisoner.

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

8 (a) A prisoner's marital history.

9 (b) Prior arrests not resulting in conviction or adjudication
10 of delinquency.

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

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

27 (6) A prisoner may waive the right to an interview by 1 member

1 of the parole board. The waiver of the right to be interviewed
2 shall be given not more than 30 days after the notice of intent to
3 conduct an interview is issued and shall be made in writing. During
4 the interview held pursuant to a notice of intent to conduct an
5 interview, the prisoner may be represented by an individual of his
6 or her choice. The representative shall not be another prisoner or
7 an attorney. A prisoner is not entitled to appointed counsel at
8 public expense. The prisoner or representative may present relevant
9 evidence in support of release. This subsection does not apply
10 until April 1, 1983.

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

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

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

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

27 (d) Whether the prisoner fully cooperated with the state by

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

4 **(E) WHETHER THE PRISONER COMPLIED WITH THE REQUIREMENTS OF**
5 **SECTION 34B FOR OBTAINING IDENTIFICATION DOCUMENTS.**

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

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

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

16 (10) The parole board may grant a medical parole for a
17 prisoner determined to be physically or mentally incapacitated. A
18 decision to grant a medical parole shall be initiated upon the
19 recommendation of the bureau of health care services and shall be
20 reached only after a review of the medical, institutional, and
21 criminal records of the prisoner.

22 (11) The department shall submit 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

1 parolee whom the department has determined to be a person requiring
2 treatment whether or not the petition filed for that prisoner is
3 granted by the court. As used in this subsection, "person requiring
4 treatment" means that term as defined in section 401 of the mental
5 health code, 1974 PA 258, MCL 330.1401.

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

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

14 Sec. 37. (1) When a prisoner is released upon parole, the
15 department shall provide the prisoner with clothing and a
16 nontransferable ticket to the place in which the paroled prisoner
17 is to reside. At the discretion of the deputy director in charge of
18 the ~~bureau of field services~~ **OPERATIONS ADMINISTRATION**, the paroled
19 prisoner may be advanced the expense of the transportation to the
20 place of residence and a sum of money necessary for reasonable
21 maintenance and subsistence for a 2-week period, as determined by
22 the deputy director. A sum of money given under this section shall
23 be repaid to the state by the paroled prisoner within 180 days
24 after the money is received by the paroled prisoner.

25 (2) If a prisoner who is discharged without being paroled has
26 less than \$75.00 in his or her immediate possession, has no visible
27 means of support, and has conserved personal funds in a reasonable

1 manner, the department shall furnish to that prisoner **ALL OF** the
2 following:

3 (a) Clothing that is appropriate for the season.

4 (b) A sum of \$75.00 including that amount already in the
5 prisoner's possession.

6 (c) Transportation to a place in this state where the prisoner
7 will reside or work or to the place where the prisoner was
8 convicted or sentenced.

9 (3) When providing for transportation, the department shall **DO**
10 **ALL OF THE FOLLOWING:**

11 (a) Use the most economical available public transportation.

12 (b) Arrange for and purchase the prisoner's transportation
13 ticket.

14 (c) Assume responsibility for delivering that prisoner to the
15 site of departure and confirming the prisoner's departure from the
16 site.

17 (4) **THE DEPARTMENT SHALL PROVIDE AN IDENTIFICATION CARD TO**
18 **EACH PRISONER WHEN HE OR SHE IS RELEASED ON PAROLE OR IS RELEASED**
19 **UPON COMPLETION OF HIS OR HER MAXIMUM SENTENCE. THE IDENTIFICATION**
20 **CARD SHALL INCLUDE ALL OF THE FOLLOWING:**

21 (A) **THE PRISONER'S PHOTOGRAPH, TAKEN NOT EARLIER THAN 6 MONTHS**
22 **BEFORE THE PRISONER'S DATE OF RELEASE.**

23 (B) **THE PRISONER'S LEGAL NAME.**

24 (C) **THE PRISONER'S PLACE AND DATE OF BIRTH.**

25 (D) **THE DATE ON WHICH THE PRISONER BEGAN HIS OR HER TERM OF**
26 **INCARCERATION AT A STATE CORRECTIONAL FACILITY.**

27 (E) **A STATEMENT AS TO WHETHER THE PRISONER WAS PLACED ON**

1 PAROLE.

2 (F) A LIST OF THE PRISONER'S KNOWN ALIASES AND FORMER LEGAL
3 NAMES, IF ANY.

4 (5) ~~(4)~~—The cost of implementing this section shall be paid
5 out of the general fund of the state.

6 SEC. 37A. IF A PRISONER HAS MONEY REMAINING IN HIS OR HER
7 INSTITUTIONAL ACCOUNT ON THE DATE OF HIS OR HER RELEASE ON PAROLE
8 OR RELEASE UPON COMPLETING HIS OR HER MAXIMUM SENTENCE, THE
9 DEPARTMENT, UPON THE PRISONER'S RELEASE, SHALL ISSUE TO THE
10 PRISONER A DEBIT CARD THAT ALLOWS THE PRISONER TO MAKE ELECTRONIC
11 TRANSFERS OF FUNDS FROM THE PRISONER'S INSTITUTIONAL ACCOUNT.

12 Sec. 67. (1) Quarters for temporary confinement apart from
13 those of regular inmates shall be provided for convicted prisoners
14 upon commitment at each of the state correctional facilities, which
15 the director shall designate as a reception center. Within 60 days
16 after the arrival of a convicted prisoner at ~~such~~ a state
17 correctional facility, the classification committee shall ~~make~~ DO
18 BOTH OF THE FOLLOWING:

19 (A) MAKE and complete a comprehensive study of the prisoner,
20 including physical and psychiatric examinations, to ensure that the
21 prisoner is confined in the state correctional facility suited to
22 the type of rehabilitation required in his or her case. The warden
23 of the state correctional facility shall deliver a report of the
24 study of the classification committee to the deputy director of the
25 correctional facilities administration, who shall, within 5 days
26 after receipt of the report, execute an order to confine the
27 prisoner in the state correctional facility determined as suitable

1 by the deputy director.

2 (B) REQUIRE THE PRISONER TO EXECUTE A WRITTEN IDENTIFICATION
3 STATEMENT, ON A FORM PROVIDED BY THE DEPARTMENT. THE STATEMENT
4 SHALL BE SIGNED BY THE PRISONER UNDER PENALTY OF PERJURY. THE
5 STATEMENT SHALL CONTAIN ALL OF THE FOLLOWING INFORMATION CONCERNING
6 THE PRISONER:

7 (i) HIS OR HER NAME GIVEN AT BIRTH.

8 (ii) HIS OR HER CURRENT LEGAL NAME, IF DIFFERENT FROM HIS OR
9 HER BIRTH NAME.

10 (iii) HIS OR HER PLACE AND DATE OF BIRTH.

11 (2) Immediately upon arrival at a reception center designated
12 pursuant to subsection (1), each incoming prisoner shall undergo a
13 test for HIV or an antibody to HIV. This subsection does not apply
14 if an incoming prisoner has been tested for HIV or an antibody to
15 HIV under section 5129 of the public health code, ~~Act No. 368 of~~
16 ~~the Public Acts of 1978, being section 333.5129 of the Michigan~~
17 ~~Compiled Laws 1978 PA 368, MCL 333.5129~~, within the 3 months
18 immediately preceding the date of the prisoner's arrival at the
19 reception center, as indicated by the record transferred to the
20 department by the court under that section.

21 (3) If a prisoner receives a positive test result and is
22 subsequently subject to discipline by the department for sexual
23 misconduct that could transmit HIV, illegal intravenous use of
24 controlled substances, or assaultive or predatory behavior that
25 could transmit HIV, the department shall house that prisoner in
26 administrative segregation, an inpatient health care unit, or a
27 unit separate from the general prisoner population, as determined

1 by the department.

2 (4) The department shall report each positive test result to
3 the department of community health, in compliance with section 5114
4 of ~~Act No. 368 of the Public Acts of 1978, being section 333.5114~~
5 ~~of the Michigan Compiled Laws~~ **THE PUBLIC HEALTH CODE, 1978 PA 368,**
6 **MCL 333.5114.**

7 (5) If an employee of the department sustains a percutaneous,
8 mucous membrane, or open wound exposure to the blood or body fluid
9 of a prisoner, the employee may, and the department shall, proceed
10 under section 67b.

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

14 (7) Upon the request of an employee of the department, the
15 department shall provide to that employee the equipment necessary
16 to implement universal precautions to prevent transmission of HIV
17 infection.

18 (8) A prisoner who receives a positive HIV test result under
19 subsection (5) shall not work in a health facility operated by the
20 department.

21 (9) The department shall conduct a seroprevalence study of the
22 prisoners in all state correctional facilities to determine the
23 percentage of prisoners who are HIV infected.

24 (10) The results of a test for HIV or an antibody to HIV
25 conducted under this section shall be disclosed by the department
26 pursuant to section 67b.

27 (11) The deputy director of the correctional facilities

1 administration shall take steps to ensure that all prisoners who
2 receive HIV testing receive counseling regarding AIDS including, at
3 a minimum, treatment, transmission, and protective measures.

4 (12) The department, in conjunction with the department of
5 community health, shall develop and implement a comprehensive AIDS
6 education program designed specifically for correctional
7 environments. The program shall be conducted by the bureau within
8 the department responsible for health care, for staff and for
9 prisoners at each state correctional facility.

10 ~~— (13) By March 30, 1991, the department shall submit a report~~
11 ~~regarding the testing component, managerial aspects, and~~
12 ~~effectiveness of subsections (2) to (12) to the senate and house~~
13 ~~committees with jurisdiction over matters pertaining to~~
14 ~~corrections, and to the senate and house committees with~~
15 ~~jurisdiction over matters pertaining to public health.~~

16 (13) ~~(14)~~ As used in this section:

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

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

19 (c) "Positive test result" means a double positive enzyme-
20 linked immunosorbent assay test, combined with a positive western
21 blot assay test, or a positive test under an HIV test that is
22 considered reliable by the federal centers for disease control and
23 is approved by the department of community health.

24 Enacting section 1. This amendatory act does not take effect
25 unless all of the following bills of the 94th Legislature are
26 enacted into law:

27 (a) Senate Bill No 45.

1

2 (b) Senate Bill No. 46.

3