CORRECTIONS CODE OF 1953 (EXCERPT)
Act 232 of 1953

CHAPTER III
BUREAU OF PARDONS AND PAROLES; PAROLE BOARD.

791.231 Bureau of field services; establishment; direction and supervision by deputy director; appointment; duties; assistants.

Sec. 31. There is established within the department a bureau of field services, under the direction and supervision of a deputy director in charge of field services, who shall be appointed by the director and who shall be within the state civil service. The deputy director shall direct and supervise the work of the bureau of field services and shall formulate methods of investigation and supervision and develop various processes in the technique of supervision by the parole staff. The deputy director is responsible for all investigations of persons eligible for release from state penal institutions, and for the general supervision of persons released from penal institutions. The deputy director in charge of the bureau of field services is responsible for the collection and preservation of records and statistics with respect to paroled prisoners as may be required by the director and the chairperson of the parole board. The deputy director shall employ parole officers and assistants as may be necessary, subject to the approval of the director. The deputy director shall select secretarial and other assistants as may be necessary and may obtain permanent quarters for the staff as may be necessary.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1982, Act 314, Imd. Eff. Oct. 15, 1982.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the Bureau of Field Services and the deputy director in charge of field services to the Director of the Michigan Department of Corrections, see E.R.O. No. 1992-3, compiled at MCL 791.303 of the Michigan Compiled Laws.

Popular name: Department of Corrections Act

791.231a Parole board; establishment; appointment, terms, and removal of members; vacancy; salary and expenses; designation and responsibility of chairperson; powers and duties.

Sec. 31a. (1) Beginning October 1, 1992, there is established in the department, a parole board consisting of 10 members who shall be appointed by the director and who shall not be within the state civil service.

(2) Members of the parole board shall be appointed to terms of 4 years each, except that of the members first appointed, 4 shall serve for terms of 4 years each, 3 shall serve for terms of 3 years each, and 3 shall serve for terms of 2 year each. A member may be reappointed. The director may remove a member of the parole board for incompetency, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office. If a vacancy occurs on the parole board, the director shall make an appointment for the unexpired term in the same manner as an original appointment. At least 4 members of the parole board shall be persons who, at the time of their appointment, have never been employed by or appointed to a position in the department of corrections.

(3) Each member of the parole board shall receive an annual salary as established by the legislature and shall be entitled to necessary traveling expenses incurred in the performance of official duties subject to the standardized travel regulations of the state.

(4) The chairperson of the parole board shall be designated by the director. The chairperson of the parole board is responsible for the administration and operation of the parole board. The chairperson may conduct interviews and participate in the parole decision making process. The chairperson shall select secretaries and other assistants as the chairperson considers to be necessary.

(5) The parole board created in this section shall exist for purposes of appointment and training on October 1, 1992, and as of November 15, 1992, shall exercise and perform the powers and duties prescribed and conferred by this act.

History: Add. 1992, Act 181, Imd. Eff. Sept. 22, 1992.

Popular name: Department of Corrections Act

791.231b Parole denials; report.

Sec. 31b. (1) The department shall submit a quarterly report to the senate and house committees responsible for legislation concerning corrections issues detailing the number of prisoners who have reached their earliest possible release on parole date under the requirements of this chapter but who have not been granted parole.

(2) The report required under this section must categorize the total number of parole denials by the number

of prisoners who have been denied parole for each of the following reasons:

(a) The nature and circumstances of the offense for which the prisoner is incarcerated at the time of the parole consideration.

(b) The prisoner's institutional program performance, including whether or not the prisoner completed all required programming.

(c) The prisoner's institutional conduct, including the number of major misconduct charges for which the prisoner has been found guilty and security classification increases over the previous 5 years and the year immediately before parole consideration.

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

(e) Whether the prisoner was previously granted parole and had his or her parole revoked.

(f) Whether the prisoner was identified in the federal combined DNA index system (CODIS) and linked to an unsolved criminal violation.

(g) Other relevant factors under the parole guidelines.

History: Add. 2017, Act 7, Eff. June 29, 2017.

Popular name: Department of Corrections Act

791.232 Repealed. 1992, Act 181, Eff. Nov. 15, 1992.

Compiler's note: The repealed section pertained to establishment of parole board, appointment and qualifications of members and chairperson, and powers and duties of chairperson.

Popular name: Department of Corrections Act

791.233 Grant of parole; conditions; paroles-in-custody; rules.

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

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

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

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

(d) Except as provided in section 34a and section 35(10), a parole must not be granted to a prisoner subject to disciplinary time until the prisoner has served the minimum term imposed by the court.

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

(f) Except as provided in section 35(10), a prisoner whose minimum term of imprisonment is 2 years or more must not be released on parole unless he or she has either earned a high school diploma or a high school equivalency certificate. The director of the department may waive the restriction imposed by this subdivision as to any prisoner who is over the age of 65 or who was gainfully employed immediately before committing the crime for which he or she was incarcerated. The department may also waive the restriction imposed by this subdivision as to any prisoner who has a learning disability, who does not have the necessary proficiency in English, or who for some other reason that is not the fault of the prisoner is unable to successfully complete the requirements for a high school diploma or a high school equivalency certificate. If the prisoner does not have the necessary proficiency in English, the department shall provide English language training for that prisoner necessary for the prisoner to begin working toward the completion of the requirements for a high school equivalency certificate. This subdivision applies to prisoners sentenced for crimes committed after

December 15, 1998. In providing an educational program leading to a high school diploma or a high school equivalency certificate, the department shall give priority to prisoners sentenced for crimes committed on or before December 15, 1998.

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

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

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1978, Act 81, Eff. Sept. 1, 1978;—Am. 1978, Initiated Law, Eff. Dec. 12, 1978;—Am. 1982, Act 458, Imd. Eff. Dec. 30, 1982;—Am. 1994, Act 217, Eff. Dec. 15, 1998;—Am. 1998, Act 320, Eff. Dec. 15, 1998;—Am. 2017, Act 14, Eff. June 29, 2017;—Am. 2019, Act 14, Eff. Aug. 21, 2019.

Popular name: Department of Corrections Act

791.233a Repealed. 1982, Act 314, Imd. Eff. Oct. 15, 1982.

Compiler's note: The repealed section pertained to determining prisoner's fitness to be released on parole.

Popular name: Department of Corrections Act

791.233b Eligibility for parole; minimum term.

Sec. 33b. Except for a prisoner granted parole under section 35(10), a person convicted and sentenced for the commission of any of the following crimes other than a prisoner subject to disciplinary time is not eligible for parole until the person has served the minimum term imposed by the court less an allowance for disciplinary credits as provided in section 33(5) of 1893 PA 118, MCL 800.33, and is not eligible for special parole:

(a) Section 13 of the Michigan penal code, 1931 PA 328, MCL 750.13.

(b) Section 14 of the Michigan penal code, 1931 PA 328, MCL 750.14.

(c) Section 72, 73, or 75 of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.73, and 750.75.

(d) Section 82, 83, 84, 86, 87, 88, 89, or 90 of the Michigan penal code, 1931 PA 328, MCL 750.82, 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, and 750.90, or former section 80 of that act.

(e) Section 91 or 92 of the Michigan penal code, 1931 PA 328, MCL 750.91 and 750.92.

(f) Section 110, 112, or 116 of the Michigan penal code, 1931 PA 328, MCL 750.110, 750.112, and 750.116.

(g) Section 135 or 136b(2) or (3) of the Michigan penal code, 1931 PA 328, MCL 750.135 and 750.136b, or former section 136a of that act.

(h) Section 158 of the Michigan penal code, 1931 PA 328, MCL 750.158.

(i) Section 160 of the Michigan penal code, 1931 PA 328, MCL 750.160.

(j) Former section 171 of the Michigan penal code, 1931 PA 328.

(k) Section 196 of the Michigan penal code, 1931 PA 328, MCL 750.196, or former section 194 of that act.

(*l*) Section 204, 207, 209, or 213 of the Michigan penal code, 1931 PA 328, MCL 750.204, 750.207, 750.209, and 750.213, or former section 205, 206 or 208 of that act.

(m) Section 224, 226, or 227 of the Michigan penal code, 1931 PA 328, MCL 750.224, 750.226, and 750.227.

(n) Section 316, 317, 321, 322, 323, 327, 328, or 329 of the Michigan penal code, 1931 PA 328, MCL 750.316, 750.317, 750.321, 750.322, 750.323, 750.327, 750.328, and 750.329, or former section 319 of that act.

(o) Former section 333 of the Michigan penal code, 1931 PA 328.

(p) Section 338, 338a, or 338b of the Michigan penal code, 1931 PA 328, MCL 750.338, 750.338a, and 750.338b, or former section 341 of that act.

(q) Section 349, 349a, or 350 of the Michigan penal code, 1931 PA 328, MCL 750.349, 750.349a, and 750.350.

(r) Section 357 of the Michigan penal code, 1931 PA 328, MCL 750.357.

(s) Section 386 or 392 of the Michigan penal code, 1931 PA 328, MCL 750.386 and 750.392.

(t) Section 397 or 397a of the Michigan penal code, 1931 PA 328, MCL 750.397 and 750.397a.

(u) Section 436 of the Michigan penal code, 1931 PA 328, MCL 750.436.

(v) Section 511 of the Michigan penal code, 1931 PA 328, MCL 750.511, or former section 517 of that act.

(w) Section 520b, 520c, 520d, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, 750.520d, and 750.520g.

(x) Section 529, 529a, 530, or 531 of the Michigan penal code, 1931 PA 328, MCL 750.529, 750.529a,

750.530, and 750.531.

(y) Section 544 of the Michigan penal code, 1931 PA 328, MCL 750.544, or former section 545a of that act.

(z) Former section 2 of 1950 (Ex Sess) PA 38.

(aa) Former section 6 of 1952 PA 117.

(bb) Section 1, 2, or 3 of 1968 PA 302, MCL 752.541, 752.542, and 752.543.

(cc) Section 7401(2)(a) or (b) or 7402(2)(a) or (b) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7402.

History: Add. 1978, Initiated Law, Eff. Dec. 12, 1978;—Am. 1982, Act 458, Imd. Eff. Dec. 30, 1982;—Am. 1989, Act 252, Eff. Mar. 29, 1990;—Am. 1994, Act 199, Eff. Oct. 1, 1994;—Am. 1994, Act 217, Eff. Dec. 15, 1998;—Am. 2010, Act 94, Imd. Eff. June 22, 2010;—Am. 2019, Act 16, Eff. Aug. 21, 2019.

Constitutionality: A mandatory sentence of life without parole does not violate the prohibition against cruel and unusual punishments of the Eighth Amendment to the United States Constitution, because the Eighth Amendment contains no proportionality guarantee. Neither does the Eighth Amendment prohibit the imposition of mandatory sentences -- "severe, mandatory penalties may be cruel, but they are not unusual in the constitutional sense ... " -- nor does it require consideration of individualized, mitigating circumstances beyond those cases in which a capital sentence is imposed. Harmelin v Michigan, 501 US 957; 111 S Ct 2680; 115 L Ed2d 836 (1991).

Compiler's note: Section 2 of 1994 PA 217, which provides that "This amendatory act shall take effect on the date that sentencing guidelines are enacted into law after the sentencing commission submits its report to the secretary of the senate and the clerk of the house of representatives pursuant to sections 31 to 34 of chapter IX of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, as added by the amendatory act resulting from House Bill No. 4782 of the 87th Legislature." was repealed by 1998 PA 316, effective Dec. 15, 1998.

Popular name: Department of Corrections Act

791.233b[1] "Major controlled substance offense" defined.

Sec. 33b. As used in section 34, "major controlled substance offense" means any of the following:

(a) A violation of section 7401(2)(a)(*i*) or (*ii*) of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.7401 of the Michigan Compiled Laws.

(b) A violation of section 7403(2)(a)(*i*) or (*ii*) of Act No. 368 of the Public Acts of 1978, being section 333.7403 of the Michigan Compiled Laws.

(c) Conspiracy to commit an offense listed in subdivision (a) or (b).

History: Add. 1978, Act 81, Eff. Sept. 1, 1978;—Am. 1988, Act 143, Imd. Eff. June 3, 1988.

Compiler's note: Section 33b, as added by Act 81 of 1978, was compiled as MCL 791.233b[1] to distinguish it from another section 33b added by the initiated law submitted to and approved by the people at the general election held on November 7, 1978.

Popular name: Department of Corrections Act

791.233c "Prisoner subject to disciplinary time" defined.

Sec. 33c. As used in this act, "prisoner subject to disciplinary time" means that term as defined in section 34 of Act No. 118 of the Public Acts of 1893, being section 800.34 of the Michigan Compiled Laws.

History: Add. 1994, Act 217, Eff. Dec. 15, 1998.

Compiler's note: Section 2 of 1994 PA 217, which provides that "This amendatory act shall take effect on the date that sentencing guidelines are enacted into law after the sentencing commission submits its report to the secretary of the senate and the clerk of the house of representatives pursuant to sections 31 to 34 of chapter IX of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, as added by the amendatory act resulting from House Bill No. 4782 of the 87th Legislature." was repealed by 1998 PA 316, effective Dec. 15, 1998.

Popular name: Department of Corrections Act

791.233d Samples for DNA identification profiling.

Sec. 33d. (1) Each prisoner serving a sentence in a state correctional facility, and each probationer placed at the special alternative incarceration program under the special alternative incarceration act, 1988 PA 287, MCL 798.11 to 798.18, shall provide a sample for DNA identification profiling. If a valid sample has not already been collected in the manner prescribed under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176, and recorded on the prisoner's or probationer's criminal history record, the sample required under this subsection shall be obtained within the following time periods, as applicable:

(a) For a prisoner serving a sentence in a state correctional facility or a probationer in a special alternative incarceration program on June 1, 2011, the samples shall be obtained not later than January 1, 2012. However, if the prisoner or probationer is released on parole, placed in a community placement facility of any kind, including a community corrections center or a community residential home, or discharged upon completion of his or her maximum sentence before January 1, 2012, the samples shall be obtained before the date of release, placement, or discharge.

(b) For a prisoner serving a sentence in a state correctional facility or a probationer in a special alternative incarceration program whose sentence begins after June 1, 2011, the samples shall be obtained not later than 90 days after the date on which the prisoner or probationer is committed to the jurisdiction of the department.

(2) If, at the time the prisoner or probationer is to be released, placed, or discharged the department of state police already has a sample from the prisoner or probationer that meets the requirements of the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176, the prisoner or probationer is not required to provide another sample or pay the fee required under subsection (5).

(3) The samples required to be collected under this section shall be collected by the department and transmitted by the department to the department of state police in the manner prescribed under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176.

(4) The department shall collect a sample under this section regardless of whether the prisoner consents to the collection. The department is not required to give the prisoner an opportunity for a hearing or obtain a court order before collecting the sample.

(5) A prisoner or probationer shall pay an assessment of $60.00. The department shall transmit the assessments or portions of assessments collected to the department of treasury for the department of state police forensic science division to defray the costs associated with the requirements of DNA profiling and DNA retention prescribed under the DNA identification profiling system act, 1990 PA 250, MCL 28.171 to 28.176.

(6) The DNA profiles of DNA samples received under this section shall only be disclosed as follows:

(a) To a criminal justice agency for law enforcement identification purposes.

(b) In a judicial proceeding as authorized or required by a court.

(c) To a defendant in a criminal case if the DNA profile is used in conjunction with a charge against the defendant.

(d) For an academic, research, statistical analysis, or protocol developmental purpose only if personal identifications are removed.

(7) As used in this section, "sample" means a portion of the blood, saliva, or tissue collected from the prisoner or probationer.

History: Add. 1990, Act 251, Eff. Sept. 1, 1994;—Am. 1994, Act 164, Eff. Sept. 1, 1994;—Am. 1996, Act 509, Imd. Eff. Jan. 9, 1997;—Am. 2001, Act 86, Eff. Jan. 1, 2002;—Am. 2011, Act 127, Imd. Eff. July 21, 2011.

Compiler's note: Section 2 of Act 251 of 1990 provides: “This amendatory act shall not take effect unless the sponsor of this bill provides an enacted source of revenue to fully fund the program and the legislature appropriates sufficient money to fund the program it creates.”

Popular name: Department of Corrections Act

791.233e Parole guidelines; rules; reasons for departure from guidelines; waiver for subsequent review; report.

Sec. 33e. (1) The department shall develop parole guidelines that are consistent with section 33(1)(a) to govern the exercise of the parole board's discretion under sections 34 and 35 as to the release of prisoners on parole under this act. The purpose of the parole guidelines is to assist the parole board in making objective, evidence-based release decisions that enhance the public safety.

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

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

(b) The prisoner's institutional program performance.

(c) The prisoner's institutional conduct.

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

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

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

(a) The prisoner's statistical risk screening.

(b) The prisoner's age.

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

(5) The department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that prescribe the parole guidelines.

(6) The parole board may depart from the parole guidelines by denying parole to a prisoner who has a high

probability of parole as determined under the parole guidelines or by granting parole to a prisoner who has a low probability of parole as determined under the parole guidelines. A departure under this subsection must be for substantial and compelling objective reasons stated in writing. The parole board shall not use a prisoner's gender, race, ethnicity, alienage, national origin, or religion to depart from the recommended parole guidelines.

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

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

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

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

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

(e) There is objective evidence of post-sentencing conduct, not already scored under the parole guidelines, that the prisoner would present a high risk to public safety if paroled.

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

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

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

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

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

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

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

(9) Unless a waiver is issued under subsection (10), the parole board shall conduct a review of a prisoner, except for a prisoner serving a life sentence, who has been denied parole as follows:

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

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

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

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

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

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

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

(11) Not less than once every 2 years, the department shall review the correlation between the implementation of the parole guidelines and the recidivism rate of paroled prisoners, and shall submit to the joint committee on administrative rules any proposed revisions to the administrative rules that the department considers appropriate after conducting the review.

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

(a) The number of prisoners who scored high probability of parole and were granted parole during the

preceding calendar year.

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

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

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

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

(*i*) Homicide.

(*ii*) Sexual offense.

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

(*iv*) A nonassaultive offense.

(*v*) A controlled substance offense.

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

(*i*) Less than 1 year.

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

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

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

(*v*) Four or more years.

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

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

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

History: Add. 1992, Act 181, Imd. Eff. Sept. 22, 1992;—Am. 2018, Act 339, Eff. Dec. 12, 2018;—Am. 2022, Act 28, Imd. Eff. Mar. 11, 2022.

Popular name: Department of Corrections Act

791.234 Prisoners subject to jurisdiction of parole board; indeterminate and other sentences; termination of sentence; prisoner sentenced to imprisonment for life; ineligibility for parole; criteria for placement on parole; conditions; interview; release on parole; discretion of parole board; appeal to circuit court; cooperation with law enforcement by prisoner violating MCL 333.7401 and 333.7403; offenses occurring before certain date; notice to prosecuting attorney before granting parole; motion to object; procedures; definitions.

Sec. 34. (1) Except for a prisoner granted parole under section 35(10) or as provided in section 34a, a prisoner sentenced to an indeterminate sentence and confined in a state correctional facility with a minimum in terms of years other than a prisoner subject to disciplinary time is subject to the jurisdiction of the parole board when the prisoner has served a period of time equal to the minimum sentence imposed by the court for the crime of which he or she was convicted, less good time and disciplinary credits, if applicable.

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

(3) Except for a prisoner granted parole under section 35(10), if a prisoner other than a prisoner subject to disciplinary time is sentenced for consecutive terms, whether received at the same time or at any time during the life of the original sentence, the parole board has jurisdiction over the prisoner for purposes of parole when the prisoner has served the total time of the added minimum terms, less the good time and disciplinary

credits allowed by statute. The maximum terms of the sentences must be added to compute the new maximum term under this subsection, and discharge must be issued only after the total of the maximum sentences has been served less good time and disciplinary credits, unless the prisoner is paroled and discharged upon satisfactory completion of the parole.

(4) Except for a prisoner granted parole under section 35(10), if a prisoner subject to disciplinary time is sentenced for consecutive terms, whether received at the same time or at any time during the life of the original sentence, the parole board has jurisdiction over the prisoner for purposes of parole when the prisoner has served the total time of the added minimum terms. The maximum terms of the sentences must be added to compute the new maximum term under this subsection, and discharge must be issued only after the total of the maximum sentences has been served, unless the prisoner is paroled and discharged upon satisfactory completion of the parole.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

sentencing judge or the judge's successor in office, the objections must be made part of the prisoner's file.

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

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

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

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

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

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

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

(c) Any of the following:

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

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

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

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

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

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

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

(14) Except for a prisoner granted parole under section 35(10) and notwithstanding subsections (1) and (2), a prisoner who was convicted of violating, or attempting or conspiring to violate, section 7401(2)(a)(*ii*) or

7403(2)(a)(*ii*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, whose offense occurred before March 1, 2003, and who was sentenced according to those sections as they existed before March 1, 2003, is eligible for parole after serving the minimum of each sentence imposed for that violation or 10 years of each sentence imposed for that violation, whichever is less.

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

(16) Except for a prisoner granted parole under section 35(10) and notwithstanding subsections (1) and (2), a prisoner who was convicted of violating, or attempting or conspiring to violate, section 7401(2)(a)(*iv*) or 7403(2)(a)(*iv*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, whose offense occurred before March 1, 2003, who was sentenced according to those sections of law as they existed before March 1, 2003 to consecutive terms of imprisonment for 2 or more violations of section 7401(2)(a) or 7403(2)(a) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, is eligible for parole after serving 1/2 of the minimum sentence imposed for each violation of section 7401(2)(a)(*iv*) or 7403(2)(a)(*iv*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403. This subsection applies only to sentences imposed for violations of section 7401(2)(a)(*iv*) or 7403(2)(a)(*iv*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, and does not apply if the sentence was imposed for a conviction for a new offense committed while the individual was on probation or parole.

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

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

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

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

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

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

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

(22) As used in this section:

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

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

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

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1955, Act 107, Imd. Eff. June 3, 1955;—Am. 1957, Act 192, Eff. Sept. 27, 1957;—Am. 1958, Act 210, Eff. Sept. 13, 1958;—Am. 1978, Act 81, Eff. Sept. 1, 1978;—Am. 1982, Act 314, Imd. Eff. Oct. 15, 1982;—Am. 1992, Act 22, Imd. Eff. Mar. 19, 1992;—Am. 1992, Act 181, Imd. Eff. Sept. 22, 1992;—Am. 1994, Act 217, Eff. Dec. 15, 1998;—Am. 1994, Act 345, Eff. Jan. 1, 1995;—Am. 1998, Act 209, Eff. Oct. 1, 1998;—Am. 1998, Act 314, Eff. Oct. 1, 1998;—Am. 1998, Act 315, Eff. Dec. 15, 1998;—Am. 1998, Act 512, Imd. Eff. Jan. 8, 1999;—Am. 1999, Act 191, Eff. Mar. 10, 2000;—Am. 2002, Act 670, Eff. Mar. 1, 2003;—Am. 2004, Act 218, Eff. Oct. 12, 2004;—Am. 2006, Act 167, Eff. Aug. 28, 2006;—Am. 2010, Act 353, Imd. Eff. Dec. 22, 2010;—Am. 2016, Act 354, Eff. Mar. 21, 2017;—Am. 2017, Act 265, Eff. Mar. 28, 2018;—Am. 2019, Act 14, Eff. Aug. 21, 2019;—Am. 2024, Act 111, Eff. Apr. 2, 2025.

Constitutionality: A mandatory sentence of life without parole does not violate the prohibition against cruel and unusual punishments of the Eighth Amendment to the United States Constitution, because the Eighth Amendment contains no proportionality guarantee. Neither does the Eighth Amendment prohibit the imposition of mandatory sentences -- "severe, mandatory penalties may be cruel, but they are not unusual in the constitutional sense ... " -- nor does it require consideration of individualized, mitigating circumstances beyond those cases in which a capital sentence is imposed. Harmelin v Michigan, 501 US 957; 111 S Ct 2680; 115 L Ed2d 836 (1991).

In People v Bullock, 440 Mich 15; 485 NW2d 866 (1992), the Michigan Supreme Court held that the Michigan Constitution prohibits cruel or unusual punishment while the Eighth Amendment to the US Constitution bars only punishment that is both cruel and unusual. Basing its decision on the textual difference, the Michigan Supreme Court held that the statutory penalty of mandatory life in prison without parole for possession of 650 grams or more of any mixture containing cocaine is so grossly disproportionate as to be cruel or unusual, the result being that those portions of the statutes denying parole consideration are struck down.

Popular name: Department of Corrections Act

791.234a Placement of prisoner in special alternative incarceration unit.

Sec. 34a. (1) A prisoner sentenced to an indeterminate term of imprisonment under the jurisdiction of the department, regardless of when he or she was sentenced, shall be considered by the department for placement in a special alternative incarceration unit established under section 3 of the special alternative incarceration act, 1988 PA 287, MCL 798.13, if the prisoner meets the eligibility requirements of subsections (2) and (3). For a prisoner committed to the jurisdiction of the department on or after March 19, 1992, the department shall determine before the prisoner leaves the reception center whether the prisoner is eligible for placement in a special alternative incarceration unit, although actual placement may take place at a later date. A determination of eligibility does not guarantee placement in a unit.

(2) To be eligible for placement in a special alternative incarceration unit, the prisoner shall meet all of the following requirements:

(a) The prisoner's minimum sentence does not exceed either of the following limits, as applicable:

(*i*) Twenty-four months or less for a violation of section 110 or 110a of the Michigan penal code, 1931 PA 328, MCL 750.110 and 750.110a, if the violation involved any occupied dwelling house.

(*ii*) Thirty-six months or less for any other crime.

(b) The prisoner has never previously been placed in a special alternative incarceration unit as either a prisoner or a probationer, unless he or she was removed from a special alternative incarceration unit for medical reasons as specified in subsection (7).

(c) The prisoner is physically able to participate in the program.

(d) The prisoner does not appear to have any mental disability that would prevent participation in the program.

(e) The prisoner is serving his or her first prison sentence.

(f) At the time of sentencing, the judge did not prohibit participation in the program in the judgment of sentence.

(g) The prisoner is otherwise suitable for the program, as determined by the department.

(h) The prisoner is not serving a sentence for any of the following crimes:

(*i*) A violation of section 49, 80, 83, 89, 91, 157b, 158, 207, 260, 316, 317, 327, 328, 335a, 338, 338a, 338b, 349, 349a, 350, 422, 436, 511, 520b, 529, 529a, 531, or 544 of the Michigan penal code, 1931 PA 328, MCL 750.49, 750.80, 750.83, 750.89, 750.91, 750.157b, 750.158, 750.207, 750.260, 750.316, 750.317, 750.327, 750.328, 750.335a, 750.338, 750.338a, 750.338b, 750.349, 750.349a, 750.350, 750.422, 750.436,

750.511, 750.520b, 750.529, 750.529a, 750.531, and 750.544.

(*ii*) A violation of section 145c, 520c, 520d, or 520g of the Michigan penal code, 1931 PA 328, MCL 750.145c, 750.520c, 750.520d, and 750.520g.

(*iii*) A violation of section 72, 73, or 75 of the Michigan penal code, 1931 PA 328, MCL 750.72, 750.73, and 750.75.

(*iv*) A violation of section 86, 112, 136b, 193, 195, 213, 319, 321, 329, or 397 of the Michigan penal code, 1931 PA 328, MCL 750.86, 750.112, 750.136b, 750.193, 750.195, 750.213, 750.319, 750.321, 750.329, and 750.397.

(*v*) A violation of section 2 of 1968 PA 302, MCL 752.542.

(*vi*) An attempt to commit a crime described in subparagraphs (*i*) to (*v*).

(*vii*) A violation occurring on or after January 1, 1992, of section 625(4) or (5) of the Michigan vehicle code, 1949 PA 300, MCL 257.625.

(*viii*) A crime for which the prisoner was punished under section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

(3) A prisoner who is serving a sentence for a violation of section 7401 or 7403 of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, and who has previously been convicted for a violation of section 7401 or 7403(2)(a), (b), or (e) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, is not eligible for placement in a special alternative incarceration unit until after he or she has served the equivalent of the mandatory minimum sentence prescribed by statute for that violation.

(4) If the sentencing judge prohibited a prisoner's participation in the special alternative incarceration program in the judgment of sentence, that prisoner shall not be placed in a special alternative incarceration unit. If the sentencing judge permitted the prisoner's participation in the special alternative incarceration program in the judgment of sentence, that prisoner may be placed in a special alternative incarceration unit if the department determines that the prisoner also meets the requirements of subsections (2) and (3). If the sentencing judge neither prohibited nor permitted a prisoner's participation in the special alternative incarceration program in the judgment of sentence, and the department determines that the prisoner meets the eligibility requirements of subsections (2) and (3), the department shall notify the judge or the judge's successor, the prosecuting attorney for the county in which the prisoner was sentenced, and any victim of the crime for which the prisoner was committed if the victim has submitted to the department a written request for any notification under section 19(1) of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.769, of the proposed placement of the prisoner in the special alternative incarceration unit. The notices shall be sent not later than 30 days before placement is intended to occur. The department shall not place the prisoner in a special alternative incarceration unit unless the sentencing judge, or the judge's successor, notifies the department, in writing, that he or she does not object to the proposed placement. In making the decision on whether or not to object, the judge, or judge's successor, shall review any impact statement submitted under section 14 of the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.764, by the victim or victims of the crime of which the prisoner was convicted.

(5) Notwithstanding subsection (4), a prisoner shall not be placed in a special alternative incarceration unit unless the prisoner consents to that placement and agrees that the department may suspend or restrict privileges generally afforded other prisoners including, but not limited to, the areas of visitation, property, mail, publications, commissary, library, and telephone access. However, the department may not suspend or restrict the prisoner's access to the prisoner grievance system.

(6) Notwithstanding subsections (4) and (5), a prisoner shall not be placed in a special alternative incarceration unit unless all of the following conditions are met for the prisoner at the special alternative incarceration unit:

(a) Upon entry into the special alternative incarceration unit, a validated risk and need assessment from which a prisoner-specific transition accountability plan and prisoner-specific programming during program enrollment are utilized.

(b) Interaction with community-based service providers through established prison in-reach services from the community to which the prisoner will return is utilized.

(c) Prisoner discharge planning is utilized.

(d) Community follow-up services are utilized.

(7) A prisoner may be placed in a special alternative incarceration program for a period of not less than 90 days or more than 120 days. If, during that period, the prisoner misses more than 5 days of program participation due to medical excuse for illness or injury occurring after he or she was placed in the program, the period of placement shall be increased by the number of days missed, beginning with the sixth day of medical excuse, up to a maximum of 20 days. However, the total number of days a prisoner may be placed in this program, including days missed due to medical excuse, shall not exceed 120 days. A medical excuse shall

be verified by a physician's statement. A prisoner who is medically unable to participate in the program for more than 25 days shall be returned to a state correctional facility but may be reassigned to the program if the prisoner meets the eligibility requirements of subsections (2) and (3).

(8) Upon certification of completion of the special alternative incarceration program, the prisoner shall be placed on parole. A prisoner paroled under this section shall have conditions of parole as determined appropriate by the parole board and shall be placed on parole for not less than 18 months, or the balance of the prisoner's minimum sentence, whichever is greater, with at least the first 120 days under intensive supervision.

(9) The parole board may suspend or revoke parole for any prisoner paroled under this section subject to sections 39a and 40a. For a prisoner other than a prisoner subject to disciplinary time, if parole is revoked before the expiration of the prisoner's minimum sentence, less disciplinary credits, the parole board shall forfeit, under section 33(13) of 1893 PA 118, MCL 800.33, all disciplinary credits that were accumulated during special alternative incarceration, and the prisoner shall be considered for parole under section 35.

(10) The department shall report annually to the legislature the impact of the operation of this section, including a report concerning recidivism.

(11) The department shall contract annually for third-party evaluations that report on both of the following:

(a) The implementation of the requirements of subsection (6).

(b) The success of the special alternative incarceration program as revised under subsection (6), as evidenced by the extent to which participants subsequently violate the conditions of their parole, have their orders of parole revoked, or revictimize as evidenced by being arrested or convicted for new offenses, absconding from parole, or having outstanding warrants.

(12) Each prisoner or probationer placed in the special alternative incarceration program shall fully participate in the Michigan prisoner reentry initiative.

History: Add. 2010, Act 194, Imd. Eff. Sept. 30, 2010;—Am. 2012, Act 259, Imd. Eff. July 2, 2012.

Compiler's note: Former MCL 791.234a, which pertained to placement of prisoner in special alternative incarceration unit, was repealed by Act 107 of 2009, Eff. Sept. 30, 2010.

Popular name: Department of Corrections Act

791.234b Placement of prisoner on parole; release to United States immigration and customs enforcement; deportation.

Sec. 34b. (1) Notwithstanding sections 33 and 34, and subject to subsection (3), the parole board shall place a prisoner described in subsection (2) on parole and release that prisoner to the custody and control of the United States immigration and customs enforcement for the sole purpose of deportation.

(2) Only prisoners who meet all of the following conditions are eligible for parole under this section:

(a) A final order of deportation has been issued against the prisoner by the United States immigration and naturalization service.

(b) The prisoner has served at least 1/2 of the minimum sentence imposed by the court.

(c) The prisoner is not serving a sentence for any of the following crimes:

(*i*) A violation of section 316 or 317 of the Michigan penal code, 1931 PA 328, MCL 750.316 and 750.317 (first or second degree homicide).

(*ii*) A violation of section 520b, 520c, or 520d of the Michigan penal code, 1931 PA 328, MCL 750.520b, 750.520c, and 750.520d (criminal sexual conduct).

(d) The prisoner was not sentenced pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

(3) The parole board shall not place a prisoner on parole under this section unless it has received from the United States immigration and naturalization service assurance as to both of the following:

(a) That an order of deportation will be executed or that proceedings will promptly be commenced for the purpose of deportation upon release of the prisoner from the custody of the department.

(b) That the prisoner, if placed on parole under this section, will not be released from the custody of the United States immigration and naturalization service for any reason other than deportation, unless the United States immigration and naturalization service provides to the board a reasonable opportunity to arrange for execution of the department's warrant for the return of the prisoner to the custody of the department as provided in subsection (4).

(4) A prisoner placed on parole under this section shall be delivered to the custody of the United States immigration and naturalization service along with a warrant issued by the deputy director of the bureau of field services for the prisoner's return to the custody of the department, to be executed if the prisoner is released from the custody of the United States immigration and naturalization service for any reason other than deportation. If the prisoner is not deported, the parole board shall do all of the following:

(a) Execute the warrant.

(b) Return the prisoner to the custody of the department.

(c) Revoke the prisoner's parole.

(5) The term of a parole granted under this section shall be equal to the remaining balance of the prisoner's maximum sentence. As a condition of parole granted under this section, the paroled prisoner shall not return illegally to the United States. If a prisoner who is placed on parole under this section returns illegally to the United States at any time before the expiration of the term of his or her parole, the deputy director of the bureau of field services, upon notification from any federal or state law enforcement agency that the prisoner is in custody, shall issue a warrant for the return of the prisoner, and the prisoner's parole shall be revoked. A prisoner who is returned under this subsection is not eligible for parole or any other release from confinement during the remainder of his or her maximum sentence.

History: Add. 2010, Act 223, Eff. Mar. 30, 2011.

Popular name: Department of Corrections Act

791.234c Prisoner reentry; identification documents; refusal of prisoner to obtain documents; written information to be provided to prisoner; electronic access by secretary of state to prisoner information; reentry success fund.

Sec. 34c. (1) The department, by contract or otherwise, shall assist prisoners with reentry into the community, including, but not limited to, doing both of the following:

(a) Assisting prisoners in obtaining the identification documents described in this section.

(b) Subject to the department's security needs, reasonably allowing prisoners to obtain the following identification documents before those prisoners are released on parole or discharged upon completion of their maximum sentences:

(*i*) Any of the identification documents that, in combination with the prisoner identification card issued under section 37(4), would satisfy the application requirements for obtaining an operator's license or state personal identification card as established by the secretary of state under section 307 of the Michigan vehicle code, 1949 PA 300, MCL 257.307, or section 1 of 1972 PA 222, MCL 28.291.

(*ii*) A social security card or social security number verification, if possible to obtain.

(2) A prisoner's refusal to obtain or attempt to obtain the documents identified in subsection (1)(b) may be included as part of the prisoner's parole eligibility report, as provided in section 35(7)(e).

(3) This section applies to all prisoners who are serving a sentence under the jurisdiction of the department after the effective date of the amendatory act that added this section who are eligible to obtain an operator's license under section 307 of the Michigan vehicle code, 1949 PA 300, MCL 257.307, or a state personal identification card under section 1 of 1972 PA 222, MCL 28.291.

(4) The department shall include in writing to each prisoner the information described in section 14(9)(b) of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.14, listing the identification documents referenced in subsection (1). For a prisoner who begins serving a sentence under the jurisdiction of the department after the effective date of the amendatory act that added this section, the department shall provide that written information during reception center processing. For any prisoner who is under the jurisdiction of the department on the effective date of the amendatory act that added this section, the department shall provide that written information as follows:

(a) For a prisoner with less than 1 year remaining before parole eligibility, within 90 days after that effective date.

(b) For any other prisoner, the information shall be given at the time the parole eligibility report is prepared.

(5) The department shall allow the secretary of state to have electronic access to prisoner information for the purpose of verifying the identity of prisoners who apply for driver licenses or state personal identification cards.

(6) The reentry success fund is created within the state treasury. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The department of corrections shall expend money from the reentry success fund, upon appropriation, only for the expenses of performing the activities required by this section.

History: Add. 2012, Act 24, Imd. Eff. Feb. 23, 2012.

Popular name: Department of Corrections Act

791.234d Documents to be issued prisoner upon release; certificate of employability;

issuance; revocation; false statement or representation as misdemeanor; confirmation of validity; form; liability of department for certain actions.

Sec. 34d. (1) When a prisoner is released, the department shall issue to that prisoner documents regarding all of the following:

(a) The prisoner's criminal convictions.

(b) The prisoner's institutional history including all of the following:

(*i*) Any record of institutional misconduct.

(*ii*) Whether the prisoner successfully completed programming provided by the department or a person or entity under contract with the department.

(*iii*) Whether the prisoner obtained a high school equivalency certificate or other educational degree.

(*iv*) The prisoner's institutional work record.

(c) Other information considered relevant by the department.

(2) In addition to the documents provided under subsection (1), the department shall issue a certificate of employability described in subsection (8) to a prisoner if all of the following apply:

(a) The prisoner, while incarcerated, successfully completed or earned 1 or more of the following:

(*i*) A career and technical education course.

(*ii*) At least 36 credit hours at an accredited postsecondary educational institution.

(*iii*) An associate or bachelor's degree from an accredited postsecondary educational institution if at least 50% of the credit hours for that degree were completed while the prisoner was incarcerated.

(b) The prisoner received no major misconducts during the 2 years immediately preceding his or her release.

(c) The prisoner received no more than 3 minor misconducts during the 2 years immediately preceding his or her release.

(d) The prisoner received a silver level or better on his or her national work readiness certificate, or a similar score, as determined by the department, on an alternative job skills assessment test administered by the department.

(3) A certificate of employability must only be issued within 30 days before the prisoner is released from a correctional facility under section 35 and is valid unless revoked by the department. The department shall revoke the certificate of employability if the prisoner commits any criminal offense during the 30-day period before release and may revoke the certificate of employability if the prisoner has any institutional misconduct during that period. The department shall revoke the certificate of employability of any individual who commits a felony after receiving a certificate of employability under this section and who is then placed under the jurisdiction of the department for committing that felony.

(4) The department shall provide an individual with an opportunity to file a grievance related to the revocation of a certificate of employability under subsection (3) through the department's prisoner grievance system. The revocation of a certificate of employability is effective when the individual is notified of the revocation.

(5) An individual shall not intentionally state or otherwise represent that he or she has a valid certificate of employability issued by the department knowing that the statement or representation is false. An individual who violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(6) The revocation of a certificate of employability is for purposes of subsection (5) only and does not affect the right of an employer to rely on the validity of the certificate of employability unless the employer knew before the individual was employed that the certificate of employability was fraudulent.

(7) Upon request, the department shall confirm whether a certificate of employability has been issued to a named individual and whether the certificate is valid at the time of the inquiry and at the time of the department's response to that inquiry.

(8) A certificate of employability under this section must be on a form provided by the department.

(9) The department is not civilly liable for damages based upon its decision to issue or to deny issuance of a certificate of employability to any prisoner or for revoking or failing to revoke a certificate of employability issued to any prisoner.

History: Add. 2014, Act 359, Eff. Jan. 1, 2015;—Am. 2017, Act 14, Eff. June 29, 2017;—Am. 2018, Act 531, Eff. Mar. 28, 2019.

791.235 Release of prisoner on parole; procedure; medical parole for medically frail; definitions.

Sec. 35. (1) The release of a prisoner on parole must be granted solely upon the initiative of the parole board. There is no entitlement to parole. The parole board may grant a parole without interviewing the

prisoner if, after evaluating the prisoner according to the parole guidelines, the parole board determines that the prisoner has a high probability of being paroled and the parole board therefore intends to parole the prisoner. Except as provided in subsection (2), a prisoner must not be denied parole without an interview before 1 member of the parole board. The interview must be conducted at least 1 month before the expiration of the prisoner's minimum sentence less applicable good time and disciplinary credits for a prisoner eligible for good time and disciplinary credits, or at least 1 month before the expiration of the prisoner's minimum sentence for a prisoner subject to disciplinary time. The parole board shall consider any statement made to the parole board by a crime victim under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, or under any other provision of law. The parole board shall not consider any of the following factors in making a parole determination:

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

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

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

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

(a) A prisoner's marital history.

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

(4) If an interview is to be conducted, the prisoner must be sent a notice of intent to conduct an interview not less than 1 month before the date of the interview. The notice must state the specific issues and concerns that will be discussed at the interview and that may be a basis for a denial of parole. The parole board shall not deny parole based on reasons other than those stated in the notice of intent to conduct an interview except for good cause stated to the prisoner at or before the interview and in the written explanation required by subsection (18).

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

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

(7) At least 90 days before the expiration of the prisoner's minimum sentence less applicable good time and disciplinary credits for a prisoner eligible for good time or disciplinary credits, or at least 90 days before the expiration of the prisoner's minimum sentence for a prisoner subject to disciplinary time, or the expiration of a 12-month continuance for any prisoner, or at the request of the parole board for a prisoner being considered for parole under subsection (10), the appropriate institutional staff shall prepare a parole eligibility report. The parole eligibility report is considered pertinent information for purposes of subsection (5). The report must include all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

(*i*) His or her placement as approved by the parole board, or, if the parolee is unable to consent because of the parolee's physical or mental health condition, an individual legally entitled to agree to the parolee's placement agrees to the parolee's placement as approved by the parole board.

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

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

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

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

(d) If the parolee is medically frail as described under subsection (20)(d)(*ii*) and placement of the parolee under subdivision (a) is not in a medical facility, the parole board shall require the parolee to be subject to electronic monitoring at the time the parolee is released on parole. The parole board may remove a requirement for a parolee to be subject to electronic monitoring under this subdivision if the parole board determines electronic monitoring is not necessary to protect public safety. A requirement for electronic monitoring under this subdivision is in addition to any other requirement for electronic monitoring or monitoring by a global positioning monitoring system under another law of this state.

(e) A parolee who violates the terms of his or her parole or is determined to no longer meet the definition of medically frail may be transferred to a setting more appropriate for the medical needs of the parolee or be subject to the parole violation process under sections 38, 39, 39a, and 40a as determined by the parole board and the department.

(f) If the parolee is placed in a medical facility under subdivision (a), the parolee must only be placed in a medical facility that agrees to accept the parolee.

(12) The department shall not retain authority over the medical treatment plan for a prisoner granted parole under subsection (10) and, if a prisoner granted parole under subsection (10) is placed in a medical facility, the parolee must have full patient rights at the medical facility.

(13) The department and the parole board shall ensure that the placement and terms and conditions of a parole granted under subsection (10) do not violate any other state or federal regulations.

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

(15) A parolee granted parole under subsection (10) and placed in a medical facility has the same patient rights and responsibilities as any other individual who is a resident of or has been admitted to the medical

facility. The medical facility is not responsible for the enforcement of conditions of parole or the reporting of violations of conditions of parole for any parolee placed in the medical facility. The medical facility shall comply with state and federal laws and regulations that protect resident rights and state and federal laws and regulations for skilled nursing facilities, regardless of the conditions of parole imposed on a resident parolee.

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

(17) The department shall file a petition to the appropriate court under section 434 of the mental health code, 1974 PA 258, MCL 330.1434, for any prisoner being paroled or being released after serving his or her maximum sentence whom the department considers to be a person requiring treatment. The parole board shall require mental health treatment as a special condition of parole for any parolee whom the department has determined to be a person requiring treatment whether or not the petition filed for that prisoner is granted by the court. As used in this subsection, "person requiring treatment" means that term as defined in section 401 of the mental health code, 1974 PA 258, MCL 330.1401.

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

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

(20) As used in this section:

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

(b) "Electronic monitoring" means that term as defined in section 85.

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

(d) "Medically frail" describes an individual who is a minimal threat to society as a result of the individual's medical condition, whose recent conduct in prison indicates the individual is unlikely to engage in assaultive conduct, and who has 1 or more of the following:

(*i*) A permanent physical disability or serious and complex medical condition resulting in the inability to walk, stand, or sit without personal assistance.

(*ii*) A terminal medical or neurological condition resulting in a life expectancy of under 18 months.

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

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1982, Act 314, Imd. Eff. Oct. 15, 1982;—Am. 1984, Act 414, Eff. Mar. 29, 1985;—Am. 1992, Act 22, Imd. Eff. Mar. 19, 1992;—Am. 1992, Act 181, Imd. Eff. Sept. 22, 1992;—1994, Act 217, Eff. Dec. 15, 1998;—Am. 1998, Act 315, Eff. Dec. 15, 1998;—Am. 2012, Act 24, Imd. Eff. Feb. 23, 2012;—Am. 2018, Act 339, Eff. Dec. 12, 2018;—Am. 2019, Act 13, Eff. Aug. 21, 2019;—Am. 2024, Act 111, Eff. Apr. 2, 2025.

Transfer of powers: See MCL 791.301.

Popular name: Department of Corrections Act

791.236 Order of parole; notice; rescission; amendment; individualized conditions; supervision; restitution; payment of parole supervision fee; condition requiring payment of assessment or minimum state cost; compliance with sex offenders registration act; violation of certain sections; condition requiring housing in community corrections center or community residential home; condition requiring payment by parolee; review to ensure payment of restitution; report of violation; registration of parolee; electronic monitoring; condition to protect named person; release of prisoner; notice of residence or domicile; monitoring by global positioning monitoring system; written consent to submit to search; "violent felony" defined.

Sec. 36. (1) All paroles must be ordered by the parole board and must be signed by the chairperson. Written notice of the order must be sent by first-class mail or by electronic means to the prosecuting attorney and the sheriff or other police officer of the municipality or county in which the prisoner was convicted and to the prosecuting attorney and the sheriff or other local police officer of the municipality or county to which the paroled prisoner is sent or is to be sent. The notice must be provided not more than 10 days after the parole

board issues its order to parole the prisoner.

(2) A parole order may be rescinded at the discretion of the parole board for cause before the prisoner is released on parole. A parole must not be revoked unless an interview with the prisoner is conducted by 1 member of the parole board. The purpose of the interview is to consider and act upon information received by the board after the original parole release decision. A revocation interview must be conducted not more than 45 days after the board received the new information. Not less than 10 days before the interview, the parolee must receive a copy or summary of the new evidence that is the basis for the interview.

(3) A parole order may be amended at the discretion of the parole board for cause or to adjust conditions as the parole board determines is appropriate. An amendment to a parole order must be in writing and is not effective until notice of the amendment is given to the parolee.

(4) When a parole order is issued, the order must contain the conditions of the parole and must specifically provide proper means of supervision of the paroled prisoner in accordance with the rules of the field operations administration. The conditions of the parole must be individualized, must specifically address the assessed risks and needs of the parolee, must be designed to reduce recidivism, and must consider the needs of the victim, if applicable, including, but not limited to, the safety needs of the victim or a request by the victim for protective conditions.

(5) The parole order must contain a condition to pay restitution to the victim of the prisoner's crime or the victim's estate if the prisoner was ordered to make restitution under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, or the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69.

(6) The parole order must contain a condition requiring the parolee to pay a parole supervision fee as prescribed in section 36a.

(7) The parole order must contain a condition requiring the parolee to pay any assessment the prisoner was ordered to pay under section 5 of 1989 PA 196, MCL 780.905.

(8) The parole order must contain a condition requiring the parolee to pay the minimum state cost prescribed by section 1j of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1j, if the minimum state cost has not been paid.

(9) If the parolee is required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, the parole order must contain a condition requiring the parolee to comply with that act.

(10) If a prisoner convicted of violating or conspiring to violate section 7401(2)(a)(*i*) or (*ii*) or 7403(2)(a)(*i*) or (*ii*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, is released on parole, the parole order must contain a notice that if the parolee violates or conspires to violate article 7 of the public health code, 1978 PA 368, MCL 333.7101 to 333.7545, and that violation or conspiracy to violate is punishable by imprisonment for 4 or more years, or commits a violent felony during his or her release on parole, parole must be revoked.

(11) A parole order issued for a prisoner subject to disciplinary time may contain a condition requiring the parolee to be housed in a community corrections center or a community residential home for not less than the first 30 days but not more than the first 180 days of his or her term of parole. As used in this subsection, "community corrections center" and "community residential home" mean those terms as defined in section 65a.

(12) The parole order must contain a condition requiring the parolee to pay the following amounts owed by the prisoner, if applicable:

(a) The balance of filing fees and costs ordered to be paid under section 2963 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2963.

(b) The balance of any filing fee ordered to be paid by a federal court under 28 USC 1915 and any unpaid order of costs assessed against the prisoner.

(13) In each case in which payment of restitution is ordered as a condition of parole, a parole officer assigned to the case shall review the case not less than twice yearly to ensure that restitution is being paid as ordered. The final review must be conducted not less than 60 days before the expiration of the parole period. If the parole officer determines that restitution is not being paid as ordered, the parole officer shall file a written report of the violation with the parole board on a form prescribed by the parole board. The report must include a statement of the amount of arrearage and any reasons for the arrearage known by the parole officer. The parole board shall immediately provide a copy of the report to the court, the prosecuting attorney, and the victim.

(14) If a parolee is required to register under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, the parole officer shall register the parolee as provided in that act.

(15) If a parolee convicted of violating or conspiring to violate section 520b or 520c of the Michigan penal code, 1931 PA 328, MCL 750.520b and 750.520c, other than a parolee who is subject to lifetime electronic

monitoring under section 85, is placed on parole, the parole board may require that the parolee be subject to electronic monitoring. The electronic monitoring required under this subsection must be conducted in the same manner, and is subject to the same requirements, as is described in section 520n(2) of the Michigan penal code, 1931 PA 328, MCL 750.520n, and section 85, except as follows:

(a) The electronic monitoring shall continue only for the duration of the term of parole.

(b) A violation by the parolee of any requirement prescribed in section 520n(2) is a violation of a condition of parole, not a felony violation.

(16) If the parole order contains a condition intended to protect 1 or more named persons, the department shall enter those provisions of the parole order into the corrections management information system, accessible by the law enforcement information network. If the parole board rescinds a parole order described in this subsection, the department within 3 business days shall remove from the corrections management information system the provisions of that parole order.

(17) Each prisoner who is required to be registered under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, before being released on parole or being released upon completion of his or her maximum sentence, shall provide to the department notice of the location of his or her proposed place of residence or domicile. The department then shall forward that notice of location to the appropriate law enforcement agency as required under section 5(3) of the sex offenders registration act, 1994 PA 295, MCL 28.725. A prisoner who refuses to provide notice of the location of his or her proposed place of residence or domicile or knowingly provides an incorrect notice of the location of his or her proposed place of residence or domicile under this subsection is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

(18) If a prisoner is serving a sentence for violating section 411i of the Michigan penal code, 1931 PA 328, MCL 750.411i, and if a victim of that crime has registered to receive notices about that prisoner under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, the parole order for that prisoner must require that the prisoner's location be monitored by a global positioning monitoring system during the entire period of the prisoner's parole. If, at the time a prisoner described in this subsection is paroled, no victim of the crime has registered to receive notices about that prisoner under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, but a victim of the crime subsequently registers to receive those notices, the prisoner's order of parole must immediately be modified to require that the prisoner's location be monitored by a global positioning system during the balance of the period of that prisoner's parole. As used in this subsection, "global positioning monitoring system" means a system that electronically determines and reports the location of an individual by means of an ankle bracelet transmitter or similar device worn by the individual, which transmits latitude and longitude data to monitoring authorities through global positioning satellite technology but does not include any radio frequency identification technology, global positioning technology, or similar technology that would be implanted in the parolee or would otherwise violate the corporeal body of the parolee.

(19) The parole order must require the parolee to provide written consent to submit to a search of his or her person or property upon demand by a peace officer or parole officer. The written consent must include the prisoner's name and date of birth, his or her physical description, the date for release on parole, and the ending date for that parole. The prisoner shall sign the written consent before being released on parole. The department shall promptly enter this condition of parole into the department's corrections management information system or offender management network information system or into a corresponding records management system that is accessible through the law enforcement information network. Consent to a search as provided under this subsection does not authorize a search that is conducted with the sole intent to intimidate or harass.

(20) As used in this section, "violent felony" means an offense against a person in violation of section 82, 83, 84, 86, 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d, 520e, 520g, 529, 529a, or 530 of the Michigan penal code, 1931 PA 328, MCL 750.82, 750.83, 750.84, 750.86, 750.87, 750.88, 750.89, 750.316, 750.317, 750.321, 750.349, 750.349a, 750.350, 750.397, 750.520b, 750.520c, 750.520d, 750.520e, 750.520g, 750.529, 750.529a, and 750.530.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1982, Act 314, Imd. Eff. Oct. 15, 1982;—Am. 1985, Act 85, Eff. July 10, 1985;—Am. 1989, Act 185, Eff. Oct. 1, 1989;—Am. 1993, Act 346, Eff. May 1, 1994;—Am. 1994, Act 217, Eff. Dec. 15, 1998;—Am. 1994, Act 287, Eff. Oct. 1, 1995;—Am. 1996, Act 554, Eff. June 1, 1997;—Am. 1998, Act 314, Eff. Oct. 1, 1998;—Am. 1998, Act 315, Eff. Dec. 15, 1998;—Am. 1999, Act 271, Eff. July 1, 2000;—Am. 2003, Act 75, Eff. Oct. 1, 2003;—Am. 2006, Act 168, Eff. Aug. 28, 2006;—Am. 2006, Act 316, Imd. Eff. July 20, 2006;—Am. 2006, Act 403, Eff. Dec. 1, 2006;—Am. 2008, Act 191, Imd. Eff. July 10, 2008;—Am. 2011, Act 165, Imd. Eff. Oct. 6, 2011;—Am. 2012, Act 623, Imd. Eff. Jan. 9, 2013;—Am. 2020, Act 398, Eff. Mar. 24, 2021.

Popular name: Department of Corrections Act

791.236a Collection of supervision fee by parole board; payment; allocation of money collected for other obligations; waiver of fee; determination and collection of fee for offender transferred to state under interstate compact; administrative costs; unpaid amounts; "electronic monitoring device" defined.

Sec. 36a. (1) Except as provided in subsection (6), the parole board shall include in each order of parole that the department collect a parole supervision fee of $30.00 multiplied by the number of months of parole ordered, but not more than 60 months if the individual is placed on parole supervision without an electronic monitoring device. If the individual is placed on parole supervision under this subsection with an electronic monitoring device, the parole board shall include in each order of parole that the department shall collect a parole supervision fee of $60.00 multiplied by the number of months of parole ordered, but not more than 60 months. The fee is payable when the parole order is entered, but the fee may be paid in monthly installments if the parole board approves installment payments for that parolee.

(2) If a person who is subject to a supervision fee is also subject to any combination of fines, costs, restitution, assessments, or payments arising out of the same criminal proceeding, the allocation of money collected for those obligations must be as provided in section 22 of chapter XV of the code of criminal procedure, 1927 PA 175, MCL 775.22.

(3) A person must not be subject to more than 1 parole supervision fee at the same time. If a parole supervision fee is ordered for a parolee for any month or months during which that parolee already is subject to a parole supervision fee, the department shall waive the fee having the shorter remaining duration.

(4) The department shall waive the parole supervision fee for a parolee who is transferred to another state under the interstate compact entered into pursuant to 1935 PA 89, MCL 798.101 to 798.103, or the interstate compact entered into pursuant to the interstate compact for adult offender supervision, 2002 PA 40, MCL 3.1011 to 3.1012, for the months during which he or she is in another state. The department shall collect a parole supervision fee of $30.00 per month for each month of parole supervision in this state for an offender transferred to this state under an interstate compact if the offender is placed on parole supervision without an electronic monitoring device. If the offender is placed on parole supervision under this subsection with an electronic monitoring device, the department of corrections shall collect a parole supervision fee of $60.00 per month for each month of parole supervision in this state.

(5) Twenty percent of the money collected by the department under this section must be allocated for administrative costs incurred by the department in collecting parole supervision fees and for enhanced services, as described in this subsection. Enhanced services include, but are not limited to, the purchase of services for parolees such as counseling, employment training, employment placement, or education; public transportation expenses related to training, counseling, or employment; enhancement of staff performance through specialized training and equipment purchase; and purchase of items for parolee employment. At the end of each fiscal year, the unexpended balance of the money allocated for administrative costs and enhanced services must be available for carryforward to be used for the purposes described in this subsection in subsequent fiscal years.

(6) The department shall waive the supervision fee under subsections (1) and (4) if the department determines that an offender is indigent.

(7) The department shall not collect any fees for offenders supervised under this section for electronic monitoring in excess of the fees required to be collected under subsections (1) and (4).

(8) If a parolee has not paid the full amount of the parole supervision fee upon being discharged from parole including a parolee being supervised on parole on the effective date of the amendatory act that amended this subsection, the department shall waive any amount in excess of the aggregate sum of $30.00 per month for each month a parolee was supervised without an electronic monitoring device and $60.00 per month for each month the parolee was supervised with an electronic monitoring device. Any unpaid amounts not waived by the department must be reported to the department of treasury. The department of treasury shall attempt to collect the unpaid balances pursuant to section 30a of 1941 PA 122, MCL 205.30a. Money collected under this subsection must not be allocated for the purposes described in subsection (5).

(9) As used in this section, "electronic monitoring device" includes any electronic device or instrument that is used to track the location of an individual, enforce a curfew, or detect the presence of alcohol in an individual's body.

History: Add. 1989, Act 185, Eff. Oct. 1, 1989;—Am. 1993, Act 184, Imd. Eff. Sept. 30, 1993;—Am. 1993, Act 346, Imd. Eff. Jan. 10, 1994;—Am. 2002, Act 502, Imd. Eff. July 16, 2002;—Am. 2019, Act 164, Eff. Mar. 19, 2020.

Popular name: Department of Corrections Act

791.237 Paroled or discharged prisoner; furnishing clothing, transportation, and money;

repayment of money; prisoner identification card; cost of implementing section.

Sec. 37. (1) When a prisoner is released upon parole, the department shall provide the prisoner with clothing and a nontransferable ticket to the place in which the paroled prisoner is to reside. At the discretion of the deputy director in charge of the field operations administration, the paroled prisoner may be advanced the expense of the transportation to the place of residence and a sum of money necessary for reasonable maintenance and subsistence for a 2-week period, as determined by the deputy director. A sum of money given under this section shall be repaid to the state by the paroled prisoner within 180 days after the money is received by the paroled prisoner.

(2) If a prisoner who is discharged without being paroled has less than $75.00 in his or her immediate possession, has no visible means of support, and has conserved personal funds in a reasonable manner, the department shall furnish to that prisoner all of the following:

(a) Clothing that is appropriate for the season.

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

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

(3) When providing for transportation, the department shall do all of the following:

(a) Use the most economical available public transportation.

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

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

(4) The department shall provide a prisoner identification card to each prisoner when he or she is released on parole or is released upon completion of his or her maximum sentence. The identification card shall include all of the following based upon all available information:

(a) The prisoner's photograph, taken every 3 years or upon significant appearance change, whichever occurs first.

(b) The prisoner's legal name as identified on the prisoner's birth certificate or on any 1 of the other citizenship identification documents specified by the secretary of state as being necessary to obtain an operator's license or state personal identification card, if those documents are available.

(c) The prisoner's date of birth.

(d) A statement as to whether the prisoner was placed on parole or discharged upon completion of his or her sentence.

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

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1980, Act 22, Imd. Eff. Mar. 7, 1980;—Am. 1982, Act 314, Imd. Eff. Oct. 15, 1982 ;—Am. 1994, Act 217, Eff. Dec. 15, 1998;—Am. 2012, Act 24, Imd. Eff. Feb. 23, 2012.

Compiler's note: Section 2 of 1994 PA 217, which provides that "This amendatory act shall take effect on the date that sentencing guidelines are enacted into law after the sentencing commission submits its report to the secretary of the senate and the clerk of the house of representatives pursuant to sections 31 to 34 of chapter IX of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, as added by the amendatory act resulting from House Bill No. 4782 of the 87th Legislature." was repealed by 1998 PA 316, effective Dec. 15, 1998.

Popular name: Department of Corrections Act

791.238 Custody of paroled prisoner; warrant for return of paroled prisoner; incarceration pending hearing; treatment as escaped prisoner; time during parole violation not counted as time served; forfeiture of good time; committing crime while on parole; construction of parole.

Sec. 38. (1) Each prisoner on parole shall remain in the legal custody and under the control of the department. The deputy director of the bureau of field services, upon a showing of probable violation of parole, may issue a warrant for the return of any paroled prisoner. Pending a hearing upon any charge of parole violation, the prisoner shall remain incarcerated.

(2) A prisoner violating the provisions of his or her parole and for whose return a warrant has been issued by the deputy director of the bureau of field services is treated as an escaped prisoner and is liable, when arrested, to serve out the unexpired portion of his or her maximum imprisonment. The time from the date of the declared violation to the date of the prisoner's availability for return to an institution shall not be counted as time served. The warrant of the deputy director of the bureau of field services is a sufficient warrant authorizing all officers named in the warrant to detain the paroled prisoner in any jail of the state until his or her return to the state penal institution.

(3) If a paroled prisoner fails to return to prison when required by the deputy director of the bureau of field services or if the paroled prisoner escapes while on parole, the paroled prisoner shall be treated in all respects

as if he or she had escaped from prison and is subject to be retaken as provided by the laws of this state.

(4) The parole board, in its discretion, may cause the forfeiture of all good time to the date of the declared violation.

(5) A prisoner committing a crime while at large on parole and being convicted and sentenced for the crime shall be treated as to the last incurred term as provided under section 34.

(6) A parole shall be construed as a permit to the prisoner to leave the prison, and not as a release. While at large, the paroled prisoner shall be considered to be serving out the sentence imposed by the court and, if he or she is eligible for good time, shall be entitled to good time the same as if confined in a state correctional facility.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1968, Act 192, Eff. Nov. 15, 1968;—Am. 1982, Act 314, Imd. Eff. Oct. 15, 1982;—Am. 1994, Act 217, Eff. Dec. 15, 1998.

Compiler's note: Section 2 of 1994 PA 217, which provides that "This amendatory act shall take effect on the date that sentencing guidelines are enacted into law after the sentencing commission submits its report to the secretary of the senate and the clerk of the house of representatives pursuant to sections 31 to 34 of chapter IX of the code of criminal procedure, Act No. 175 of the Public Acts of 1927, as added by the amendatory act resulting from House Bill No. 4782 of the 87th Legislature." was repealed by 1998 PA 316, effective Dec. 15, 1998.

Popular name: Department of Corrections Act

791.239 Paroled prisoner; arrest without warrant.

Sec. 39. A probation officer, a parole officer, a peace officer of this state, or an employee of the department other than a probation or parole officer who is authorized by the director to arrest parole violators may arrest without a warrant and detain in any jail of this state a paroled prisoner, if the probation officer, parole officer, peace officer, or authorized departmental employee has reasonable grounds to believe that the prisoner has violated parole or a warrant has been issued for his or her return under section 38.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1968, Act 192, Eff. Nov. 15, 1968;—Am. 1982, Act 314, Imd. Eff. Oct. 15, 1982;—Am. 1988, Act 293, Imd. Eff. Aug. 4, 1988.

Popular name: Department of Corrections Act

791.239a Arrest for alleged parole violation; right to preliminary hearing; notice of hearing; rights at hearing; postponement; notice of charges, summary of evidence, and determination of guilt when preliminary hearing not held.

Sec. 39a. (1) Within 10 days after an arrest for an alleged violation of parole, the parolee shall be entitled to a preliminary hearing to determine whether there is probable cause to believe that the conditions of parole have been violated or a fact-finding hearing held pursuant to section 40a.

(2) Prior to the preliminary hearing, the accused parolee shall be given written notice of the charges, time, place, and purpose of the preliminary hearing.

(3) At the preliminary hearing, the accused parolee is entitled to the following rights:

(a) Disclosure of the evidence against him or her.

(b) The right to testify and present relevant witnesses and documentary evidence.

(c) The right to confront and cross-examine adverse witnesses unless the person conducting the preliminary hearing finds on the record that a witness may be subjected to risk of harm if his or her identity is revealed.

(4) A preliminary hearing may be postponed beyond the 10-day time limit on the written request of the parolee, but shall not be postponed by the department.

(5) If a preliminary hearing is not held pursuant to subsection (1), an accused parolee shall be given written notice of the charges against him or her, the time, place and purpose of the fact-finding hearing and a written summary of the evidence to be presented against him or her.

(6) If a preliminary hearing is not held pursuant to subsection (1), an accused parolee may not be found guilty of a violation based on evidence that was not summarized in the notice provided pursuant to subsection (5) except for good cause stated on the record and included in the written findings of fact provided to the parolee.

History: Add. 1982, Act 314, Imd. Eff. Oct. 15, 1982.

Popular name: Department of Corrections Act

791.240 Prisoner convicted of violent felony; placement on parole; special provisions; history of substance abuse; report; definitions.

Sec. 40. (1) If a prisoner serving a sentence for conviction of a violent felony is placed on parole, both of the following special provisions apply:

(a) The supervising parole agent shall make a home call within the first 45 days after the prisoner is placed on parole.

(b) The supervising parole agent shall do a LEIN check not less than quarterly for that parolee and not later than 1 month before a parolee is discharged from parole.

(2) If a prisoner who has a history of substance abuse is placed on parole and is assigned to intensive, maximum, or medium parole supervision, the department shall require as a condition of parole that the parolee submit to substance abuse testing at least twice each month.

(3) The department shall report to the legislature on a quarterly basis both of the following:

(a) The number of parolees who are absconders.

(b) The number of parolees who have been absconders for more than 3 months.

(4) As used in this section:

(a) "LEIN" means the law enforcement information network regulated under the C.J.I.S. policy council act, 1974 PA 163, MCL 28.211 to 28.215.

(b) "Substance abuse" means the taking of alcohol or other drugs at dosages that place an individual's social, economic, psychological, and physical welfare in potential hazard or to the extent that an individual loses the power of self-control as a result of the use of alcohol or drugs, or while habitually under the influence of alcohol or drugs, endangers public health, morals, safety, or welfare, or a combination thereof.

(c) "Violent felony" means that term as defined in section 36.

History: Add. 2006, Act 487, Eff. Jan. 1, 2007;—Am. 2018, Act 295, Eff. Sept. 27, 2018.

Compiler's note: Former MCL 791.240, which pertained to violation of parole, was repealed by Act 192 of 1968, Eff. Nov. 15, 1968.

Popular name: Department of Corrections Act

791.240a Parole; revocation; violation; right to fact-finding hearing; time and location of hearing; parolee determined to be indigent; appointment of attorney; notice; rights at hearing; postponement; notice to director if hearing not conducted within certain time period; insufficient evidence; reinstatement to parole status; finding of parole violation; revocation of parole; noncompliance with order to make restitution; "violent felony" defined.

Sec. 40a. (1) After a prisoner is released on parole, the prisoner's parole order is subject to revocation at the discretion of the parole board for cause as provided in this section.

(2) If a paroled prisoner who is required to register pursuant to the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, willfully violates that act, the parole board shall revoke the parole. If a prisoner convicted of violating or conspiring to violate section 7401(2)(a)(*i*) or (*ii*) or 7403(2)(a)(*i*) or (*ii*) of the public health code, 1978 PA 368, MCL 333.7401 and 333.7403, is released on parole and violates or conspires to violate article 7 of the public health code, 1978 PA 368, MCL 333.7101 to 333.7545, and that violation or conspiracy to violate is punishable by imprisonment for 4 or more years, or commits a violent felony during his or her release on parole, parole shall be revoked.

(3) Within 45 days after a paroled prisoner has been returned or is available for return to a state correctional facility under accusation of a parole violation other than conviction for a felony or misdemeanor punishable by imprisonment under the laws of this state, the United States, or any other state or territory of the United States, the prisoner is entitled to a fact-finding hearing on the charges before 1 member of the parole board or an attorney hearings officer designated by the chairperson of the parole board. The fact-finding hearing shall be conducted only after the accused parolee has had a reasonable amount of time to prepare a defense. The fact-finding hearing may be held at a state correctional facility or at or near the location of the alleged violation.

(4) If, before a fact-finding hearing begins, the accused parolee alleges that he or she is indigent and requests that an attorney be appointed to represent him or her, the parole board member or attorney hearings officer who will conduct the hearing shall determine whether the accused parolee is indigent. If the accused parolee is determined to be indigent, the parole board member or hearings officer shall cause the appointment of an attorney to represent the accused parolee at the fact-finding hearing. The cost of the appointed attorney shall be paid from the department's general operating budget.

(5) An accused parolee shall be given written notice of the charges against him or her and the time, place, and purpose of the fact-finding hearing. At the fact-finding hearing, the accused parolee may be represented by a retained attorney or an attorney appointed under subsection (4) and is entitled to the following rights:

(a) Full disclosure of the evidence against him or her.

(b) To testify and present relevant witnesses and documentary evidence.

(c) To confront and cross-examine adverse witnesses unless the person conducting the fact-finding hearing finds on the record that a witness is subject to risk of harm if his or her identity is revealed.

(d) To present other relevant evidence in mitigation of the charges.

(6) A fact-finding hearing may be postponed for cause beyond the 45-day time limit on the written request of the parolee, the parolee's attorney, or, if a postponement of the preliminary parole violation hearing required under section 39a has been granted beyond the 10-day time limit, by the parole board.

(7) The director or a deputy director designated by the director shall be notified in writing if the preliminary parole violation hearing is not conducted within the 10-day time limit, and the hearing shall be conducted as soon as possible. The director or a deputy director designated by the director shall be notified in writing if the fact-finding hearing is not conducted within the 45-day time limit, and the hearing shall be conducted as soon as possible. A parolee held in custody shall not be released pending disposition of either hearing.

(8) If the evidence presented is insufficient to support the allegation that a parole violation occurred, the parolee shall be reinstated to parole status.

(9) If the parole board member or hearings officer conducting the fact-finding hearing determines from a preponderance of the evidence that a parole violation has occurred, the parole board member or hearings officer shall present the relevant facts to the parole board and make a recommendation as to the disposition of the charges.

(10) If a preponderance of the evidence supports the allegation that a parole violation occurred, the parole board may revoke parole, and the parolee shall be provided with a written statement of the findings of fact and the reasons for the determination within 60 days after the paroled prisoner has been returned or is available for return to a state correctional facility.

(11) A parolee who is ordered to make restitution under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, or the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69, or to pay an assessment ordered under section 5 of 1989 PA 196, MCL 780.905, as a condition of parole may have his or her parole revoked by the parole board if the parolee fails to comply with the order and if the parolee has not made a good faith effort to comply with the order. In determining whether to revoke parole, the parole board shall consider the parolee's employment status, earning ability, and financial resources, the willfulness of the parolee's failure to comply with the order, and any other special circumstances that may have a bearing on the parolee's ability to comply with the order.

(12) As used in this section, "violent felony" means that term as defined in section 36.

History: Add. 1968, Act 192, Eff. Nov. 15, 1968;—Am. 1982, Act 314, Imd. Eff. Oct. 15, 1982;—Am. 1985, Act 85, Eff. July 10, 1985;—Am. 1993, Act 346, Eff. May 1, 1994;—Am. 2006, Act 315, Imd. Eff. July 20, 2006;—Am. 2006, Act 316, Imd. Eff. July 20, 2006;—Am. 2006, Act 532, Imd. Eff. Dec. 29, 2006.

Popular name: Department of Corrections Act

791.241 Order rescinding or reinstating parole.

Sec. 41. When the parole board has determined the matter it shall enter an order rescinding such parole, or reinstating the original order of parole or enter such other order as it may see fit.

History: 1953, Act 232, Eff. Oct. 2, 1953.

Popular name: Department of Corrections Act

791.242 Final order of discharge; certificate; period of parole.

Sec. 42. (1) If a paroled prisoner has faithfully performed all of the conditions and obligations of parole for the period of time fixed in the order of parole, and has obeyed all of the rules and regulations adopted by the parole board, the prisoner has served the full sentence required. The parole board shall enter a final order of discharge and issue the paroled prisoner a certificate of discharge.

(2) Parole shall not be granted for a period less than 2 years in a case of murder, actual forcible rape, robbery armed, kidnapping, extortion, or breaking and entering an occupied dwelling in the nighttime unless the maximum time remaining to be served on the sentence is less than 2 years.

(3) Parole shall only be granted for life for a prisoner sentenced under section 520b(2)(b) of the Michigan penal code, 1931 PA 328, MCL 750.520b.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1961, Act 92, Eff. Sept. 8, 1961;—Am. 2006, Act 170, Eff. Aug. 28, 2006.

Popular name: Department of Corrections Act

791.243 Applications for pardon; filing, information.

Sec. 43. All applications for pardons, reprieves and commutations shall be filed with the parole board upon forms provided therefor by the parole board, and shall contain such information, records and documents as the

parole board may by rule require.

History: 1953, Act 232, Eff. Oct. 2, 1953.

Popular name: Department of Corrections Act

791.244 Parole board interview of prisoner serving sentence for first degree murder or sentence of imprisonment for life without parole; board duties upon own initiation or receipt of application for reprieve, commutation, or pardon; exception; files as public record.

Sec. 44. (1) Subject to the constitutional authority of the governor to grant reprieves, commutations, and pardons, 1 member of the parole board shall interview a prisoner serving a sentence for murder in the first degree or a sentence of imprisonment for life without parole at the conclusion of 10 calendar years and thereafter as determined appropriate by the parole board, until such time as the prisoner is granted a reprieve, commutation, or pardon by the governor, or is deceased. The interview schedule prescribed in this subsection applies to all prisoners to whom this section or section 44a applies, regardless of when they were sentenced.

(2) Except in cases in which a commutation is requested based in part on a prisoner's medical condition and in which the governor has requested that the parole board expedite its review and hearing process under section 44a, upon its own initiation of, or upon receipt of an application for, a reprieve, commutation, or pardon, the parole board shall do all of the following, as applicable:

(a) Not more than 60 days after receipt of an application, conduct a review to determine whether the application for a reprieve, commutation, or pardon has merit.

(b) Deliver either the written documentation of the initiation or the original application with the parole board's determination regarding merit, to the governor and retain a copy of each in its file, pending an investigation and hearing.

(c) Within 10 days after initiation, or after determining that an application has merit, forward to the sentencing judge and to the prosecuting attorney of the county having original jurisdiction of the case, or their successors in office, a written notice of the filing of the application or initiation, together with copies of the application or initiation, any supporting affidavits, and a brief summary of the case. Not more than 30 days after receipt of notice of the filing of any application or initiation, the sentencing judge and the prosecuting attorney, or their successors in office, may file information at their disposal, together with any objections, in writing. If the sentencing judge and the prosecuting attorney, or their successors in office, do not respond after not more than 30 days, the parole board shall proceed on the application or initiation.

(d) If an application or initiation for commutation is based on physical or mental incapacity, direct the bureau of health care services to evaluate the condition of the prisoner and report on that condition. If the bureau of health care services determines that the prisoner is physically or mentally incapacitated, the bureau shall appoint a specialist in the appropriate field of medicine who is not employed by the department to evaluate the condition of the prisoner and to report on that condition. These reports are protected by the doctor-patient privilege of confidentiality, except that these reports shall be provided to the governor for his or her review.

(e) Within 270 days after initiation by the parole board or receipt of an application that the parole board has determined to have merit under subdivision (a), make a full investigation and determination on whether or not to proceed to a public hearing.

(f) Conduct a public hearing not later than 90 days after making a decision to proceed with consideration of a recommendation for the granting of a reprieve, commutation, or pardon. The public hearing must be held before a formal recommendation is transmitted to the governor. One member of the parole board who will be involved in the formal recommendation may conduct the hearing, and the public must be represented by the attorney general or a member of the attorney general's staff.

(g) Not fewer than 30 days before conducting the public hearing, provide written notice of the public hearing by mail to the attorney general, the sentencing trial judge, and the prosecuting attorney, or their successors in office, and each victim who requests notice under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

(h) Conduct the public hearing under the rules promulgated by the department. Except as otherwise provided in this subdivision, a person having information in connection with the pardon, commutation, or reprieve must be sworn as a witness. A person who is a victim must be given an opportunity to address and be questioned by the parole board at the hearing or to submit written testimony for the hearing. In hearing testimony, the parole board shall give liberal construction to any technical rules of evidence.

(i) Transmit its formal recommendation to the governor.

(j) Make all data in its files available to the governor if the parole board recommends the granting of a

reprieve, commutation, or pardon.

(3) Except for medical records protected by the doctor-patient privilege of confidentiality, the files of the parole board in cases under this section are matters of public record.

History: 1953, Act 232, Eff. Oct. 2, 1953;—Am. 1982, Act 314, Imd. Eff. Oct. 15, 1982;—Am. 1992, Act 181, Imd. Eff. Sept. 22, 1992;—Am. 1999, Act 191, Eff. Mar. 10, 2000;—Am. 2017, Act 8, Eff. June 29, 2017.

Popular name: Department of Corrections Act

Administrative rules: R 791.1101 et seq. of the Michigan Administrative Code.

791.244a Reprieve, commutation, or pardon; request from governor to expedite review and hearing process; basis; duties of parole board; files as public record.

Sec. 44a. (1) Upon a request from the governor under this section to expedite the review and hearing process for a reprieve, commutation, or pardon based in part on a prisoner's medical condition, the parole board shall do all of the following, as applicable:

(a) Not more than 10 days after receipt of an application, conduct a review to determine whether the application for a reprieve, commutation, or pardon has merit.

(b) Deliver either the written documentation of the initiation or the original application with the parole board's determination regarding merit to the governor and retain a copy of each in its file, pending an investigation and hearing.

(c) Within 5 days after initiation, or after determining that an application has merit, forward to the sentencing judge and to the prosecuting attorney of the county having original jurisdiction of the case, or their successors in office, a written notice of the filing of the application or initiation, together with copies of the application or initiation, any supporting affidavits, and a brief summary of the case. Not more than 30 days after receipt of notice of the filing of any application or initiation, the sentencing judge and the prosecuting attorney, or their successors in office, may file information at their disposal, together with any objections, in writing. If the sentencing judge and the prosecuting attorney, or their successors in office, do not respond after not more than 30 days, the parole board shall proceed on the application or initiation.

(d) Direct the bureau of health care services to evaluate the physical and mental condition of the prisoner and report on that condition. If the bureau of health care services determines that the prisoner is physically or mentally incapacitated, the bureau shall appoint a specialist in the appropriate field of medicine who is not employed by the department to evaluate the condition of the prisoner and to report on that condition. These reports are protected by the doctor-patient privilege of confidentiality, except that they shall be provided to the governor for his or her review.

(e) Not more than 90 days after initiation by the parole board or receipt of an application that the parole board has determined to have merit under subdivision (a), make a full investigation and determination on whether or not to proceed to a public hearing.

(f) Conduct a public hearing not later than 90 days after making a decision to proceed with consideration of a recommendation for the granting of a reprieve, commutation, or pardon. The public hearing shall be held before a formal recommendation is transmitted to the governor. One member of the parole board who will be involved in the formal recommendation may conduct the hearing, and the public must be represented by the attorney general or a member of the attorney general's staff.

(g) Not fewer than 30 days before conducting the public hearing, provide written notice of the public hearing by mail to the attorney general, the sentencing judge, and the prosecuting attorney, or their successors in office, and each victim who requests notice under the William Van Regenmorter crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834.

(h) Conduct the public hearing under the rules promulgated by the department. Except as otherwise provided in this subdivision, any person having information in connection with the pardon, commutation, or reprieve must be sworn as a witness. A person who is a victim must be given an opportunity to address and be questioned by the parole board at the hearing or to submit written testimony for the hearing. In hearing testimony, the parole board shall give liberal construction to any rules of evidence.

(i) Transmit its formal recommendation to the governor.

(j) Make all data in its files available to the governor if the parole board recommends the granting of a reprieve, commutation, or pardon.

(2) Except for medical records protected by the doctor-patient privilege of confidentiality, the files of the parole board in cases under this section are matters of public record.

History: Add. 2017, Act 8, Eff. June 29, 2017.

Popular name: Department of Corrections Act

791.245 Hearing; administering oath to witness.

Sec. 45. In the conduct of any hearing or investigation as herein provided any member of the parole board may administer the oath to any witness.

History: 1953, Act 232, Eff. Oct. 2, 1953.

Popular name: Department of Corrections Act

791.246 Decisions and recommendations of parole board; majority vote required.

Sec. 46. All decisions and recommendations of the parole board required by this act must be by a majority vote of the parole board or, except as otherwise prohibited by this act, a parole board panel created pursuant to section 6(2).

History: Add. 1982, Act 314, Imd. Eff. Oct. 15, 1982;—Am. 2022, Act 29, Imd. Eff. Mar. 11, 2022.

Popular name: Department of Corrections Act