

HOUSE BILL No. 4548

March 29, 2007, Introduced by Reps. Condino, Bieda, Alma Smith and Warren and referred to the Committee on Judiciary.

A bill to amend 1953 PA 232, entitled "Corrections code of 1953," by amending sections 33e, 34, and 35 (MCL 791.233e, 791.234, and 791.235), section 33e as added by 1992 PA 181, section 34 as amended by 2006 PA 167, and section 35 as amended by 1998 PA 315.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 33e. (1) The department shall develop parole guidelines
2 that are consistent with section ~~33(1)(a)~~ **33(1)** and that shall
3 govern the exercise of the parole board's discretion pursuant to
4 sections 34 and 35 as to the release of prisoners on parole under
5 this act. The purpose of the parole guidelines shall be to assist
6 the parole board in making release decisions that ~~enhance~~ **IMPLEMENT**
7 **THE INTENT OF THE SENTENCING JUDGE, CONSISTENT WITH** the public
8 safety.

1 (2) THE PAROLE GUIDELINES SHALL DO ALL OF THE FOLLOWING:

2 (A) PROVIDE FOR PROTECTION OF THE PUBLIC.

3 (B) REFLECT A PRISONER'S ACTUAL CURRENT RISK FOR REOFFENDING.

4 (C) ENCOURAGE POSITIVE INSTITUTIONAL CONDUCT AND PARTICIPATION
5 IN INSTITUTIONAL PROGRAMS.

6 (D) APPLY TO ALL PRISONERS ELIGIBLE FOR PAROLE, INCLUDING
7 THOSE WITHIN THE PAROLE BOARD'S JURISDICTION PURSUANT TO SECTION
8 34(6).

9 (3) ~~(2)~~—In developing the parole guidelines, the department
10 shall consider **AND SEPARATELY VALIDATE** factors including, but not
11 limited to, **ALL OF** the following:

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

14 (b) The prisoner's ~~institutional program performance~~ **CURRENT**
15 **AGE**.

16 (c) The prisoner's institutional conduct.

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

23 (e) Other relevant factors ~~as~~ determined by the department **TO**
24 **PREDICT THE RISK OF REOFFENDING**, if not otherwise prohibited by
25 law.

26 (4) **EACH FACTOR IN SUBSECTION (3) SHALL BE WEIGHTED ACCORDING**
27 **TO ITS ACTUAL ABILITY TO PREDICT THE RISK OF REOFFENDING.**

1 (5) ~~(3)~~—In developing the parole guidelines, the department
2 ~~may~~ **ALSO SHALL** consider ~~both~~ **ALL** of the following factors:

3 ~~— (a) The prisoner's statistical risk screening.~~

4 ~~— (b) The prisoner's age.~~

5 **(A) THE PRISONER'S INSTITUTIONAL PROGRAM PERFORMANCE.**

6 **(B) THE PRISONER'S PHYSICAL HEALTH.**

7 **(C) THE PRISONER'S MENTAL HEALTH.**

8 **(D) THE PRISONER'S PREVIOUS EXPERIENCE WITH PROBATION OR**
9 **PAROLE.**

10 (6) ~~(4)~~—The department shall ensure that the parole guidelines
11 do not create disparities in release decisions based on race,
12 color, national origin, gender, religion, or disability. **IN**
13 **DEVELOPING THE PAROLE GUIDELINES, THE DEPARTMENT MAY ACCORD**
14 **POSITIVE WEIGHT TO THE LENGTH OF TIME THE PRISONER HAS SERVED, THE**
15 **AVAILABILITY OF FAMILY AND COMMUNITY SUPPORT, AND THE PROBABILITY**
16 **THAT THE PRISONER WILL BE DEPORTED OR RELEASED INTO THE CUSTODY OF**
17 **ANOTHER JURISDICTION IF PAROLED. HOWEVER, NO WEIGHT SHALL BE**
18 **ACCORDED TO THE FACT THAT A PRISONER ELIGIBLE FOR PAROLE IS SERVING**
19 **A LONG INDETERMINATE OR LIFE SENTENCE.**

20 (7) ~~(5)~~—The department shall promulgate rules pursuant to the
21 administrative procedures act of 1969, ~~Act No. 306 of the Public~~
22 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~
23 ~~Compiled Laws 1969 PA 306, MCL 24.201 TO 24.328,~~ which shall
24 prescribe the parole guidelines. ~~The department shall submit the~~
25 ~~proposed rules to the joint committee on administrative rules not~~
26 ~~later than April 1, 1994. Until the rules take effect, the director~~
27 ~~shall require that the parole guidelines be considered by the~~

1 ~~parole board in making release decisions. After the rules take~~
2 ~~effect, the director shall require that the parole board follow the~~
3 ~~parole guidelines.~~

4 (8) ~~(6)~~ The parole board may depart from the parole guidelines
5 by denying parole to a prisoner who has a high probability of
6 parole as determined under the parole guidelines or by granting
7 parole to a prisoner who has a low probability of parole as
8 determined under the parole guidelines. A departure under this
9 subsection shall be for substantial and compelling reasons stated
10 in writing. The parole board shall not use a prisoner's gender,
11 race, ethnicity, alienage, national origin, or religion to depart
12 from the recommended parole guidelines. **THE BOARD SHALL NOT BASE A**
13 **DEPARTURE ON A FACTOR ALREADY TAKEN INTO ACCOUNT BY EITHER THE**
14 **SENTENCING GUIDELINES OR THE PAROLE GUIDELINES UNLESS THE BOARD**
15 **FINDS FROM FACTS IN THE RECORD THAT THE FACTOR HAS BEEN GIVEN**
16 **INADEQUATE OR DISPROPORTIONATE WEIGHT.**

17 (9) **THE PRISONER MAY APPEAL A DENIAL OF PAROLE BY LEAVE TO THE**
18 **CIRCUIT COURT THAT IMPOSED THE SENTENCE THAT THE PRISONER IS**
19 **SERVING ONLY ON 1 OR MORE OF THE FOLLOWING GROUNDS:**

20 (A) **THE BOARD DEPARTED FROM THE PAROLE GUIDELINES WITHOUT**
21 **SUBSTANTIAL AND COMPELLING REASONS.**

22 (B) **THE DENIAL RESULTED FROM A MATERIAL MISTAKE IN THE PAROLE**
23 **GUIDELINES SCORING THAT THE BOARD FAILED TO RECONSIDER AFTER**
24 **RECEIVING NOTICE FROM THE PRISONER.**

25 (C) **THE DENIAL RESULTED FROM RELIANCE ON INACCURATE OR**
26 **INCOMPLETE INFORMATION THAT THE BOARD FAILED TO RECONSIDER AFTER**
27 **RECEIVING NOTICE FROM THE PRISONER.**

1 (10) A WRITTEN NOTICE TO A PRISONER STATING THAT HIS OR HER
2 PAROLE IS DENIED SHALL INCLUDE ALL OF THE FOLLOWING:

3 (A) A STATEMENT OF THE PRISONER'S RIGHT TO APPEAL THE DENIAL
4 TO THE EXTENT ALLOWED UNDER SUBSECTION (9).

5 (B) A STATEMENT OF THE APPLICABLE FILING DEADLINES FOR FILING
6 THE APPEAL.

7 (C) A STATEMENT THAT THE PRISONER HAS NO RIGHT TO THE
8 APPOINTMENT OF COUNSEL AT PUBLIC EXPENSE FOR THE APPEAL.

9 (11) ~~(7)~~—Not less than once every 2 years, the department
10 shall review the correlation between the implementation of the
11 parole guidelines and the recidivism rate of paroled prisoners, and
12 shall submit to the joint committee on administrative rules any
13 proposed revisions to the administrative rules that the department
14 considers appropriate after conducting the review.

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

23 (2) Except as provided in section 34a, a prisoner subject to
24 disciplinary time sentenced to an indeterminate sentence and
25 confined in a state correctional facility with a minimum in terms
26 of years is subject to the jurisdiction of the parole board when
27 the prisoner has served a period of time equal to the minimum

1 sentence imposed by the court for the crime of which he or she was
2 convicted.

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

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

25 (5) If a prisoner other than a prisoner subject to
26 disciplinary time has 1 or more consecutive terms remaining to
27 serve in addition to the term he or she is serving, the parole

1 board may terminate the sentence the prisoner is presently serving
2 at any time after the minimum term of the sentence has been served.

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

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

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

10 (c) A violation of chapter XXXVIII of the Michigan penal code,
11 1931 PA 328, MCL 750.200 to 750.212a.

12 (d) A violation of section 17764(7) of the public health code,
13 1978 PA 368, MCL 333.17764.

14 (e) First degree criminal sexual conduct in violation of
15 section 520b(2)(c) of the Michigan penal code, 1931 PA 328, MCL
16 750.520b.

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

19 (7) A prisoner sentenced to imprisonment for life, other than
20 a prisoner described in subsection (6), is subject to the
21 jurisdiction of the parole board and may be placed on parole
22 according to the conditions prescribed in subsection (8) if he or
23 she meets any of the following criteria:

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

1 (b) Except as provided in subsection (12), the prisoner has
2 served 20 calendar years of a sentence for violating or conspiring
3 to violate section 7401(2)(a)(i) of the public health code, 1978 PA
4 368, MCL 333.7401, and has another conviction for a serious crime.

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

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

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

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

1 evidence for the parole board's consideration in conducting the
2 file review.

3 (c) A decision to grant ~~or deny~~ parole to the prisoner shall
4 not be made until after a public hearing held in the manner
5 prescribed for pardons and commutations in sections 44 and 45.
6 Notice of the public hearing shall be given to the sentencing
7 judge, or the judge's successor in office, and parole shall not be
8 granted if the sentencing judge, or the judge's successor in
9 office, files written objections to the granting of the parole
10 within 30 days of receipt of the notice of hearing. The written
11 objections shall be made part of the prisoner's file.

12 (d) A parole granted under subsection (7) shall be for a
13 period of not less than 4 years and subject to the usual rules
14 pertaining to paroles granted by the parole board. A parole granted
15 under subsection (7) is not valid until the transcript of the
16 record is filed with the attorney general whose certification of
17 receipt of the transcript shall be returnable to the office of the
18 parole board within 5 days. Except for medical records protected
19 under section 2157 of the revised judicature act of 1961, 1961 PA
20 236, MCL 600.2157, the file of a prisoner granted a parole under
21 subsection (7) is a public record.

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

24 (a) The prisoner shall be given written notice, not less than
25 30 days before the interview date, stating that the interview will
26 be conducted.

27 (b) The prisoner may be represented at the interview by an

1 individual of his or her choice. The representative shall not be
2 another prisoner. A prisoner is not entitled to appointed counsel
3 at public expense. The prisoner or representative may present
4 relevant evidence in favor of holding a public hearing as allowed
5 in subsection (8)(b).

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

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

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

16 (c) Any of the following:

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

24 (ii) Whether the individual was a principal administrator,
25 organizer, or leader of an entity that the individual knew or had
26 reason to know committed violations of section 7401 or 7403 of the
27 public health code, 1978 PA 368, MCL 333.7401 and 333.7403, and

1 whether the violation for which the individual was convicted was
2 committed to further the interests of that entity.

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

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

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

16 (12) If the sentencing judge, or his or her successor in
17 office, determines on the record that a prisoner described in
18 subsection (7) (b) or (c) sentenced to imprisonment for life for
19 violating or conspiring to violate section 7401(2) (a) (i) of the
20 public health code, 1978 PA 368, MCL 333.7401, has cooperated with
21 law enforcement, the prisoner is subject to the jurisdiction of the
22 parole board and may be released on parole as provided in
23 subsection (7) (b) or (c) 2-1/2 years earlier than the time
24 otherwise indicated in subsection (7) (b) or (c). The prisoner is
25 considered to have cooperated with law enforcement if the court
26 determines on the record that the prisoner had no relevant or
27 useful information to provide. The court shall not make a

1 determination that the prisoner failed or refused to cooperate with
2 law enforcement on grounds that the defendant exercised his or her
3 constitutional right to trial by jury. If the court determines at
4 sentencing that the defendant cooperated with law enforcement, the
5 court shall include its determination in the judgment of sentence.

6 (13) An individual convicted of violating or conspiring to
7 violate section 7401(2)(a)(ii) or 7403(2)(a)(ii) of the public health
8 code, 1978 PA 368, MCL 333.7401 and 333.7403, before March 1, 2003
9 is eligible for parole after serving the minimum of each sentence
10 imposed for that violation or 10 years of each sentence imposed for
11 that violation, whichever is less.

12 (14) An individual convicted of violating or conspiring to
13 violate section 7401(2)(a)(iii) or 7403(2)(a)(iii) of the public health
14 code, 1978 PA 368, MCL 333.7401 and 333.7403, before March 1, 2003
15 is eligible for parole after serving the minimum of each sentence
16 imposed for that violation or 5 years of each sentence imposed for
17 that violation, whichever is less.

18 (15) An individual convicted of violating or conspiring to
19 violate section 7401(2)(a)(iv) or 7403(2)(a)(iv) of the public health
20 code, 1978 PA 368, MCL 333.7401 and 333.7403, before March 1, 2003
21 who is sentenced to a term of imprisonment that is consecutive to a
22 term of imprisonment imposed for any other violation of section
23 7401(2)(a)(i) to (iv) or section 7403(2)(a)(i) to (iv) is eligible for
24 parole after serving 1/2 of the minimum sentence imposed for each
25 violation of section 7401(2)(a)(iv) or 7403(2)(a)(iv). This
26 subsection does not apply if the sentence was imposed for a
27 conviction for a new offense committed while the individual is on

1 probation or parole.

2 (16) The parole board shall provide notice to the prosecuting
3 attorney of the county in which the individual was convicted before
4 granting parole to the individual under subsection (13), (14), or
5 (15).

6 (17) As used in this section:

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

16 (b) "State correctional facility" means a facility that houses
17 prisoners committed to the jurisdiction of the department, and
18 includes a youth correctional facility operated under section 20g
19 by the department or a private vendor.

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

1 determines that the prisoner has a high probability of being
2 paroled and the parole board therefore intends to parole the
3 prisoner. Except as provided in subsection (2), a prisoner shall
4 not be denied parole without an interview before 1 member of the
5 parole board. The interview shall be conducted at least 1 month
6 before the expiration of the prisoner's minimum sentence less
7 applicable good time and disciplinary credits for a prisoner
8 eligible for good time and disciplinary credits, or at least 1
9 month before the expiration of the prisoner's minimum sentence for
10 a prisoner subject to disciplinary time. **AN INTERVIEW OF A PRISONER**
11 **WHO SCORES HIGH PROBABILITY OF RELEASE ON THE PAROLE GUIDELINES**
12 **SHALL BE RECORDED ON AUDIOTAPE OR VIDEOTAPE OR BY EQUIVALENT MEANS.**
13 **THE RECORD SHALL BE STORED UNTIL IT IS REPLACED AFTER A SUBSEQUENT**
14 **INTERVIEW OR, IF THE PRISONER IS RELEASED, UNTIL THE PRISONER IS**
15 **DISCHARGED FROM CUSTODY. IF A PAROLE DECISION IS THE SUBJECT OF AN**
16 **APPEAL, THE INTERVIEW SHALL BE TRANSCRIBED AND MADE PART OF THE**
17 **RECORD.** The parole board shall consider any statement made to the
18 parole board by a crime victim under the **WILLIAM VAN REGENMORTER**
19 **crime victim's rights act, 1985 PA 87, MCL 780.751 to 780.834, or**
20 under any other provision of law. The parole board shall not
21 consider any of the following factors in making a parole
22 determination:

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

25 (b) Information that is determined by the parole board to be
26 inaccurate or irrelevant after a challenge and presentation of
27 relevant evidence by a prisoner who has received a notice of intent

1 to conduct an interview as provided in subsection (4). This
2 subdivision applies only to presentence investigation reports
3 prepared before April 1, 1983.

4 (2) Beginning ~~on the date on which the administrative rules~~
5 ~~prescribing the parole guidelines take effect pursuant to section~~
6 ~~33e(5)~~ **JANUARY 26, 1996**, if, after evaluating a prisoner according
7 to the parole guidelines, the parole board determines that the
8 prisoner has a low probability of being paroled and the parole
9 board therefore does not intend to parole the prisoner, the parole
10 board ~~shall~~ **IS** not ~~be~~ required to interview the prisoner before
11 denying parole to the prisoner.

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

14 (a) A prisoner's marital history.

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

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

27 (5) Except for good cause, the parole board member conducting

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

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

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

27 (a) A statement of all major misconduct charges of which the

1 prisoner was found guilty and the punishment served for the
2 misconduct.

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

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

6 (d) Whether the prisoner fully cooperated with the state by
7 providing complete financial information as required under section
8 3a of the state correctional facility reimbursement act, 1935 PA
9 253, MCL 800.403a.

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

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

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

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

26 (11) The department shall submit a petition to the appropriate
27 court under section 434 of the mental health code, 1974 PA 258, MCL

1 330.1434, for any prisoner being paroled or being released after
2 serving his or her maximum sentence whom the department considers
3 to be a person requiring treatment. The parole board shall require
4 mental health treatment as a special condition of parole for any
5 parolee whom the department has determined to be a person requiring
6 treatment whether or not the petition filed for that prisoner is
7 granted by the court. As used in this subsection, "person requiring
8 treatment" means that term as defined in section 401 of the mental
9 health code, 1974 PA 258, MCL 330.1401.

10 (12) When the parole board makes a final determination not to
11 release a prisoner, the prisoner shall be provided with a written
12 explanation of the reason for denial and, if appropriate, specific
13 recommendations for corrective action the prisoner may take to
14 facilitate release. **EXCEPT FOR A PRISONER REVIEWED UNDER SECTION**
15 **34(6), A PRISONER WHO SCORES HIGH PROBABILITY OF RELEASE ON THE**
16 **PAROLE GUIDELINES AND WHO IS DENIED RELEASE SHALL BE RECONSIDERED**
17 **FOR RELEASE WITHIN 12 MONTHS AFTER THE DATE OF DENIAL.**

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