



**House
Legislative
Analysis
Section**

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SPECIAL ALTERNATIVE INCARCERATION

Senate Bill 197 (Substitute H-1)
Sponsor: Senator Ed Fredricks

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Senate Bill 652 (Substitute H-1)
Sponsor: Senator Jack Welborn

MAR 06 1989

First Analysis (12-12-89)

Senate Committee: Criminal Justice and Urban Affairs
House Committee: Corrections

Mich. State Law Library

THE APPARENT PROBLEM:

The special alternative incarceration (SAI) program, created by Public Acts 286 and 287 of 1988, takes young offenders who have never been to prison and puts them through an intensive program of physical training and work similar to that found in military basic training. In the period since the program commenced, a number of shortcomings have been perceived in the statutes. The law fails to provide for extensions of a person's term when illness or injury interferes with completion of the program; self-induced or feigned illness or injury thus can become a way to avoid the full rigors of the program. Someone who is found not to meet the requirements for placement in the program is returned to the court for sentencing, but the law does not specify further how the case is to be handled; disputes have arisen over whether the person must remain on probation or may be sentenced anew. The law does not provide for a follow-up period during which someone who has completed SAI receives the sort of intensive supervision that can keep newly-learned habits of discipline alive. The law does not explicitly provide for county jail SAI programs and local residential programs that are being developed and funded under the current Department of Corrections budget act, Public Act 183 of 1989. Amendments have been proposed to remedy these and other criticisms of the law.

THE CONTENT OF THE BILLS:

Senate Bill 652 would amend the Code of Criminal Procedure with respect to "special alternative incarceration" (SAI; the "boot camp" program). Details of the bill follow.

Post-SAI period. Someone who successfully completed a program would be placed on probation under intensive supervision for 120 days. The court could, but would not have to, order a person also to satisfactorily complete a local residential program providing vocational training, education, and substance abuse treatment. The person would be placed in the local residential program for up to 120 days, and would enter it immediately upon completing SAI.

SAI term; completion following medical excuse. A person could be placed in SAI for up to 120 days; the current limit is 90 days. If, during that period, a person missed more than five days of program participation for illness or injury occurring after placement, the period of placement would be increased by the number of days missed, beginning with the sixth day of medical excuse, up to a maximum of 20 days. Someone medically unable to participate in a program for more than 25 days would be returned to the court for sentencing. The original sentence would be

considered void. The person could be placed again in SAI after the medical condition was corrected.

Sentencing upon failure to meet SAI requirements. If the corrections department finds that a person does not meet the requirements for placement in an SAI program, that person is returned to the court for sentencing. The court would explicitly state that when this happens, the placement is to be considered void, and the person is to be sentenced as if he or she had not been placed in an SAI program.

Placement in SAI; minimum age. The bill would delete the current minimum age requirement of 17 years of age for participation in SAI. One of the requirements for placement in SAI is and would continue to be that the person would likely be sentenced to imprisonment in a state correctional facility. At present, the court must consider the supreme court's sentencing guidelines in making this determination. The bill would instead set a requirement that the felony sentencing guidelines upper limit for the recommended minimum sentence for the person's offense be 12 months or more. However, the requirement for that 12-month threshold would not apply if the person's offense was not covered by sentencing guidelines, or if a probation violation was the reason for the person being considered for SAI.

County jail SAI. The requirements for likelihood of a prison sentence would not prevent the Department of Corrections from entering into contracts with counties for participation in the county jail special alternative incarceration program. The bill would describe the county jail special incarceration program as a program in which convicted felons who would have received jail sentences of six to twelve months can participate.

MCL 771.3b

Senate Bill 197 would amend the Special Alternative Incarceration Act to raise the maximum term in the program from 90 to 120 days, and to in addition require that a person also complete a mandatory 120-day period of probation under intensive supervision. This second period would begin immediately upon satisfactory completion of SAI. Consistent with Senate Bill 652, a person could instead be required to successfully complete up to 120 days of vocational training, education, and substance abuse treatment in a local residential facility. If the residential placement was ordered, the county sheriff would transport the person directly to the local residential facility.

MCL 798.14 and 798.15

HOUSE COMMITTEE ACTION:

The House Corrections committee adopted a substitute to Senate Bill 652 that, unlike the Senate-passed version, provided for 120 days of intensively supervised probation and placement in local residential programs. As passed by the Senate, Senate Bill 197 simply deleted a reference to the corrections commission.

FISCAL IMPLICATIONS:

Fiscal information is not available. (12-11-89)

ARGUMENTS:

For:

The bills would correct various deficiencies in the statutes dealing with the special incarceration ("boot camp") program. Senate Bill 652 would clarify that someone returned to the court for sentencing does not have to be kept on probation. That bill also would ensure that illness or injury could not be improperly used to avoid full participation in an alternative incarceration program. Both bills would ensure intensive follow-up supervision for people who had completed the program, thus improving the chances that behavior will be permanently improved.

Against:

The boot camp program is as yet a new one, and many continue to be skeptical of its benefits. The bills, however, propose to expand the program by allowing youths under 17 years old to be placed in it and by allowing placements to last up to 120, rather than 90, days. Expansion of the controversial program should await further experience and evaluation. Ironically, the bills would provide for the sorts of intensive probationary programs that are at least as likely as boot camp to have lasting effects. By providing for that post-camp supervision, the bills may give the alternative incarceration program the appearance of being more successful than it really is.

POSITIONS:

The Department of Corrections supports the bills. (12-8-89)

The Michigan Sheriffs Association supports the bills. (12-11-89)

The Michigan Council on Crime and Delinquency opposes the bills. (12-8-89)