



SENATE BILL No. 1121

April 27, 1994, Introduced by Senator WELBORN and referred
to the Committee on Family Law, Mental Health, and
Corrections

A bill to amend section 3b of chapter XI of Act No 175 of
the Public Acts of 1927, entitled as amended

"The code of criminal procedure,"

as amended by Act No 21 of the Public Acts of 1992, being
section 771 3b of the Michigan Compiled Laws

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Section 3b of chapter XI of Act No 175 of the
2 Public Acts of 1927, as amended by Act No 21 of the Public Acts
3 of 1992, being section 771 3b of the Michigan Compiled Laws, is
4 amended to read as follows

5 CHAPTER XI

6 Sec 3b (1) In addition to any other terms or conditions
7 of probation provided for under this chapter, the court may
8 require under a probation order that a person convicted of a
9 crime, except a crime specified in subsection (17), for which a

1 sentence in a state correctional facility may be imposed shall
2 satisfactorily complete a program of incarceration in a special
3 alternative incarceration unit, and a period of not less than 120
4 days of probation under intensive supervision The special
5 alternative incarceration program shall be established and oper-
6 ated by the department of corrections as provided in the special
7 alternative incarceration act, Act No 287 of the Public Acts of
8 1988, being sections 798 11 to 798 18 of the Michigan Compiled
9 Laws The court also may require the person to satisfactorily
10 complete a local residential program of vocational training, edu-
11 cation, and substance abuse treatment, pursuant to subsection (9)
12 or (10)

13 (2) In order for a person to be placed in a special alterna-
14 tive incarceration program, the person shall meet all of the fol-
15 lowing requirements

16 ~~-(a) The person is not more than 25 years of age at the time~~
17 ~~of sentencing~~

18 (A) ~~-(b)~~ The person has never served a sentence of impris-
19 onment in a state correctional facility

20 (B) ~~-(c)~~ The person would likely be sentenced to imprison-
21 ment in a state correctional facility

22 (C) ~~-(d)~~ The felony sentencing guidelines upper limit for
23 the recommended ~~minimum~~ sentence for the person's offense is 12
24 months or more, as determined by the department This subdivi-
25 sion does not apply in either of the following circumstances

26 (1) The person's offense is not covered by the felony
27 sentencing guidelines

1 (11) The reason for the person being considered for
 2 placement is that he or she violated the conditions of his or her
 3 probation

4 (D) ~~-(e)-~~ The person is physically able to participate in
 5 the special alternative incarceration program

6 (E) ~~-(f)-~~ The person does not appear to have any mental
 7 handicap that would prevent participation in the special alterna-
 8 tive incarceration program

9 (3) Subsection ~~-(2)(e) and (d)-~~ (2)(B) AND (C) do not pre-
 10 vent the department of corrections from entering into contracts
 11 with counties for participation in the county jail special alter-
 12 native incarceration program The county jail special alterna-
 13 tive program is a program in which convicted felons who would
 14 have been sentenced to a county jail with a sentence of 6 to 12
 15 months can participate

16 (4) Before a court may place a person pursuant to this sec-
 17 tion, an initial investigation shall be completed by the proba-
 18 tion officer The initial investigation shall establish that the
 19 person meets the requirements of subsection (2)(a) to ~~-(e)-~~ (B)

20 (5) After a person is placed in a special alternative incar-
 21 ceration program, the department shall establish that the person
 22 meets the requirements of subsection ~~-(2)(a) to (f)-~~ (2) If the
 23 person does not meet the requirements of subsection ~~-(2)(a) to~~
 24 ~~-(f)-~~ (2), the person shall be returned to the court for
 25 sentencing The placement of a person in a special alternative
 26 incarceration program is conditioned upon the person meeting the
 27 requirements of subsection ~~-(2)(a) to (f)-~~ (2) If a person does

1 not meet the requirements of subsection ~~(2)(a) to (f)~~ (2), the
2 probation order is rescinded, and the person shall be sentenced
3 in the manner provided by law

4 (6) A person shall not be placed in a program of special
5 alternative incarceration unless the person consents to the
6 placement

7 (7) In every case in which a person is placed in a special
8 alternative incarceration program, the clerk of the sentencing
9 court shall, within 5 working days after the placement, mail to
10 the department of corrections a certified copy of the judgment of
11 sentence and the presentence investigation report of the person
12 being placed

13 (8) Except as provided in subsections (9) to (12), a person
14 shall be placed in a special alternative incarceration program
15 for a period of not more than 120 days If, during that period,
16 the person misses more than 5 days of program participation due
17 to medical excuse for illness or injury occurring after he or she
18 was placed in the program, the period of placement shall be
19 increased by the number of days missed, beginning with the sixth
20 day of medical excuse, up to a maximum of 20 days A medical
21 excuse shall be verified by a physician's statement, a copy of
22 which shall be provided to the sentencing court A person who is
23 medically unable to participate in the program for more than 25
24 days shall be returned to the court for sentencing pursuant to
25 subsection (5)

26 (9) The order of probation under subsection (1) may require
27 that a person who successfully completes a special alternative

1 incarceration program also successfully complete an additional
2 period of not more than 120 days of residential treatment in the
3 local governmental jurisdiction from which the person was commit-
4 ted, beginning immediately upon completion of the special alter-
5 native incarceration program, if the local unit of government has
6 created a residential program providing vocational training, edu-
7 cation, and substance abuse treatment, designed in whole or in
8 part for persons who complete a program of special alternative
9 incarceration

10 (10) The order of probation under subsection (1) may autho-
11 rize the department of corrections to require a person who suc-
12 cessfully completes a special alternative incarceration program
13 to also successfully complete an additional period of not more
14 than 120 days of residential treatment in a program operated by
15 the department of corrections pursuant to section 4(2) of the
16 special alternative incarceration act, Act No 287 of the Public
17 Acts of 1988, being section 798 14 of the Michigan Compiled
18 Laws A probationer sentenced pursuant to subsection (9) is not
19 eligible for residential treatment pursuant to this subsection

20 (11) An order of probation under subsection (1) that
21 requires an additional period of residential treatment upon com-
22 pletion of the special alternative incarceration program shall be
23 considered to be entered pursuant to subsection (9)

24 (12) A person who successfully completes a program of spe-
25 cial alternative incarceration shall be placed on probation under
26 intensive supervision for a period of not less than 120 days
27 The period of probation under intensive supervision shall begin

1 upon the completion of the program of special alternative
2 incarceration, unless the person has been ordered to complete an
3 additional program of residential treatment as described in sub-
4 section (9) or (10), in which case the period of probation under
5 intensive supervision shall begin upon completion of the program
6 of residential treatment

7 (13) Upon receiving a satisfactory report of performance in
8 the program from the department of corrections, the court shall
9 authorize the release of the person from confinement in the spe-
10 cial alternative incarceration unit The receipt of an unsatis-
11 factory report shall be grounds for revocation of probation as
12 would any other violation of a condition or term of probation

13 (14) A term of special alternative incarceration shall be
14 served in the manner provided in the special alternative incar-
15 ceration act, Act No 287 of the Public Acts of 1988, being sec-
16 tions 798 11 to 798 18 of the Michigan Compiled Laws

17 (15) Except as provided in subsection (16), a person shall
18 not be incarcerated in a special alternative incarceration unit
19 more than once

20 (16) If a person was placed in a special alternative incar-
21 ceration program but was returned to the court for sentencing
22 because of a medical condition existing at the time of the place-
23 ment, the person may be placed again in a special alternative
24 incarceration program after the medical condition is corrected

25 (17) A person who is convicted of any of the following
26 crimes shall not be eligible for placement in the special
27 alternative incarceration program

1 (a) Section 145c, 520b, 520c, 520d, or 520g of the Michigan
2 penal code, Act No 328 of the Public Acts of 1931, being sec-
3 tions 750 145c, 750 520b, 750 520c, 750 520d, and 750 520g of the
4 Michigan Compiled Laws

5 (b) Section 72, 73, or 75 of Act No 328 of the Public Acts
6 of 1931, being sections 750 72, 750 73, and 750 75 of the
7 Michigan Compiled Laws

8 (c) An attempt to commit a crime described in subdivision
9 (a) or (b)