



SENATE BILL No. 1122

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

A bill to amend section 34a of Act No 232 of the Public Acts of 1953, entitled as amended

"An act to revise, consolidate, and codify the laws relating to probationers and probation officers to pardons, reprieves, commutations, and paroles to the administration of correctional institutions, correctional farms, and probation recovery camps, to prisoner labor and correctional industries, and to the supervision and inspection of local jails and houses of correction to provide for the siting of correctional facilities to create a state department of corrections and to prescribe its powers and duties to provide for the transfer to and vesting in said department of powers and duties vested by law in certain other state boards, commissions, and officers, and to abolish certain boards, commissions, and offices the powers and duties of which are transferred by this act to prescribe the powers and duties of certain other state departments and agencies to provide for the creation of a local lockup advisory board to prescribe penalties for the violation of the provisions of this act to make certain appropriations to repeal certain parts of this act on specific dates and to repeal all acts and parts of acts inconsistent with the provisions of this act,"

as added by Act No 22 of the Public Acts of 1992, being section 791 234a of the Michigan Compiled Laws

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Section 34a of Act No 232 of the Public Acts of
2 1953, as added by Act No 22 of the Public Acts of 1992, being
3 section 791 234a of the Michigan Compiled Laws, is amended to
4 read as follows

5 Sec 34a (1) A prisoner sentenced ~~either before, on, or~~
6 ~~after the effective date of the amendatory act that added this~~
7 ~~section to an indeterminate~~ A term of imprisonment under the
8 jurisdiction of the department, REGARDLESS OF THE DATE ON WHICH
9 HE OR SHE IS OR WAS SENTENCED, shall be considered by the depart-
10 ment for placement in a special alternative incarceration unit
11 established under section 3 of the special alternative incarceration
12 act, Act No 287 of the Public Acts of 1988 being
13 section 798 13 of the Michigan Compiled Laws, if the prisoner
14 meets the eligibility requirements of subsections (2) and (3)
15 For a prisoner committed to the jurisdiction of the department on
16 or after ~~the effective date of the amendatory act that added~~
17 ~~this section~~ MARCH 19 1992, the department shall determine
18 before the prisoner leaves the reception center whether the pris-
19 oner is eligible for placement in a special alternative incarceration
20 unit, although actual placement may take place at a later
21 date A determination of eligibility does not guarantee place-
22 ment in a unit

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

1 (a) The EARLIEST DATE ON WHICH THE PRISONER WOULD BE
2 ELIGIBLE FOR CONSIDERATION FOR PAROLE OR FOR SUPERVISED RELEASE,
3 AS APPLICABLE, IS WITHIN 36 MONTHS ~~prisoner's minimum sentence~~
4 ~~does not exceed either of the following limits, as applicable.~~

5 ~~(i) 24 months or less for a violation of section 110 of the~~
6 ~~Michigan penal code, Act No 110 of the Public Acts of 1931,~~
7 ~~being section 750 110 of the Michigan Compiled Laws, if the vio-~~
8 ~~lation involved any occupied dwelling house, as that term is~~
9 ~~defined in that section~~

10 ~~(ii) 36 months or less for any other crime~~

11 (b) The prisoner has never previously been placed in a spe-
12 cial alternative incarceration unit as either a prisoner or a
13 probationer unless he or she was removed from a special alterna-
14 tive incarceration unit for medical reasons as specified in
15 subsection (6)

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

18 (d) The prisoner does not appear to have any mental handicap
19 that would prevent participation in the program

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

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

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

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

1 (1) ~~Section~~ A VIOLATION OF SECTION 11, 49, 80, 83, 89, 91,
 2 157b, 158, 207, 260, 316, 317, 327, 328, 335a, 338, 338a, 338b,
 3 349, 349a, 350, 422, 436, 511, 516, 517, 520b, 529, 531, or 544
 4 of the Michigan penal code, Act No 328 of the Public Acts of
 5 1931, being sections 750 11, 750 49, 750 80 750 83, 750 89,
 6 750 91, 750 157b, 750 158, 750 207, 750 260, 750 316, 750 317,
 7 750 327, 750 328, 750 335a 750 338, 750 338a, 750 338b, 750 349,
 8 750 349a, 750 350, 750 422 750 436, 750 511, 750 516, 750 517,
 9 750 520b, 750 529, 750 531, and 750 544 of the Michigan Compiled
 10 Laws

11 (11) A violation of section 145c, 520c, 520d, or 520g of Act
 12 No 328 of the Public Acts of 1931, being sections 750 145c,
 13 750 520c 750 520d, and 750 520g of the Michigan Compiled Laws

14 (111) A violation of section 72, 73 or 75 of Act No 328 of
 15 the Public Acts of 1931, being sections 750 72, 750 73, and
 16 750 75 of the Michigan Compiled Laws

17 (iv) A violation of section 86 112 136b 193 195 213
 18 319, 321, 329, or 397 of Act No 328 of the Public Acts of 1931,
 19 being sections 750 86 750 112 750 136b 750 193 750 195,
 20 750 213, 750 319 750 321 750 329 and 750 397 of the Michigan
 21 Compiled Laws

22 (v) A violation of section 2 of Act No 302 of the Public
 23 Acts of 1968, being section 752 542 of the Michigan Compiled
 24 Laws

25 (v1) An attempt to commit a crime described in subparagraphs
 26 (1) to (v)

1 (vii) A violation occurring on or after January 1, 1992, of
2 section 625(4) or (5) of the Michigan vehicle code, Act No 300
3 of the Public Acts of 1949, being section 257 625 of the Michigan
4 Compiled Laws

5 (viii) A crime for which the prisoner was punished pursuant
6 to section 10 11, or 12 of chapter IX of the code of criminal
7 procedure Act No 175 of the Public Acts of 1927, being sections
8 769 10, 769 11, and 769 12 of the Michigan Compiled Laws

9 HOWEVER, THIS SUBPARAGRAPH DOES NOT APPLY IF THE PRISONER HAS
10 NEVER PREVIOUSLY SERVED A TERM OF IMPRISONMENT IN A STATE CORREC-
11 TIONAL FACILITY AND IF NONE OF THE FELONIES FOR WHICH THE PRIS-
12 ONER WAS CONVICTED IS LISTED IN SUBPARAGRAPHS (1) TO (vii)

13 (3) A prisoner who is serving a sentence for a violation of
14 section 7401 or 7403 of the public health code, Act No 368 of
15 the Public Acts of 1978, being sections 333 7401 and 333 7403 of
16 the Michigan Compiled Laws, and who has previously been convicted
17 for a violation of section 7401 or 7403(2)(a), (b), or (e) of Act
18 No 368 of the Public Acts of 1978, being sections 333 7401 and
19 333 7403 of the Michigan Compiled Laws, is not eligible for
20 placement in a special alternative incarceration unit until after
21 he or she has served the equivalent of the mandatory minimum sen-
22 tence prescribed by statute for that violation

23 (4) If the sentencing judge prohibited a prisoner's partici-
24 pation in the special alternative incarceration program in the
25 judgment of sentence, that prisoner shall not be placed in a spe-
26 cial alternative incarceration unit If the sentencing judge
27 permitted the prisoner's participation in the special alternative

1 incarceration program in the judgment of sentence, that prisoner
2 may be placed in a special alternative incarceration unit if the
3 department determines that the prisoner also meets the require-
4 ments of subsections (2) and (3) If the sentencing judge nei-
5 ther prohibited nor permitted a prisoner's participation in the
6 special alternative incarceration program in the judgment of sen-
7 tence, and the department determines that the prisoner meets the
8 eligibility requirements of subsections (2) and (3), the depart-
9 ment shall notify the judge or the judge's successor, the prose-
10 cuting attorney for the county in which the prisoner was sen-
11 tenced, and any victim of the crime for which the prisoner was
12 committed if the victim has submitted to the department a written
13 request for any notification pursuant to section 19(1) of the
14 crime victim's rights act, Act No 87 of the Public Acts of 1985,
15 being section 780 769 of the Michigan Compiled Laws, of the pro-
16 posed placement of the prisoner in the special alternative incar-
17 ceration unit not later than 30 days before placement is intended
18 to occur The department shall not place the prisoner in a spe-
19 cial alternative incarceration unit unless the sentencing judge,
20 or the judge's successor, notifies the department in writing,
21 that he or she does not object to the proposed placement In
22 making the decision on whether or not to object the judge, or
23 judge's successor, shall review any impact statement submitted
24 pursuant to section 14 of Act No 87 of the Public Acts of 1985,
25 being section 780 764 of the Michigan Compiled Laws, by the
26 victim or victims of the crime of which the prisoner was
27 convicted

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

9 (6) A prisoner may be placed in a special alternative incar-
10 ceration program for a period of not less than 90 days or more
11 than 120 days. If, during that period, the prisoner misses more
12 than 5 days of program participation due to medical excuse for
13 illness or injury occurring after he or she was placed in the
14 program, the period of placement shall be increased by the number
15 of days missed, beginning with the sixth day of medical excuse,
16 up to a maximum of 20 days. However, the total number of days a
17 prisoner may be placed in this program, including days missed due
18 to medical excuse, shall not exceed 120 days. A medical excuse
19 shall be verified by a physician's statement. A prisoner who is
20 medically unable to participate in the program for more than 25
21 days shall be returned to a state correctional facility but may
22 be reassigned to the program if the prisoner meets the eligibil-
23 ity requirements of subsections (2) and (3).

24 (7) Upon certification of completion of the special alterna-
25 tive incarceration program, the prisoner, IF HE OR SHE WAS SEN-
26 TENCED FOR A CRIME COMMITTED ON OR BEFORE THE EFFECTIVE DATE OF
27 THE 1994 AMENDATORY ACT THAT AMENDED THIS SECTION, shall be

1 placed on parole, OR, IF HE OR SHE WAS SENTENCED FOR A CRIME
2 COMMITTED AFTER THE 1994 AMENDATORY ACT THAT AMENDED THIS SEC-
3 TION, SHALL BE PLACED ON SUPERVISED RELEASE A prisoner
4 ~~paroled~~ PLACED ON PAROLE OR SUPERVISED RELEASE under this sec-
5 tion shall have conditions of parole OR SUPERVISED RELEASE as
6 determined appropriate by the ~~parole~~ OFFENDER REVIEW board
7 ~~and~~ A PRISONER WHO IS PAROLED shall be placed on parole for not
8 less than 18 months, or the balance of the prisoner's minimum
9 sentence, whichever is greater, with at least the first 120 days
10 under intensive supervision

11 (8) The ~~parole~~ OFFENDER REVIEW board may suspend or revoke
12 parole for any prisoner paroled under this section subject to
13 sections 39a and 40a If parole is revoked before the expiration
14 of the prisoner's minimum sentence, less disciplinary credits,
15 the parole board shall forfeit all disciplinary credits granted
16 pursuant to section 33(13) of Act No 118 of the Public Acts of
17 1893 being section 800 33 of the Michigan Compiled Laws, that
18 were accumulated during special alternative incarceration, and
19 the prisoner shall be considered for parole pursuant to
20 section 35

21 (9) ~~One year after the effective date of the 1992 amenda-~~
22 ~~tory act that added this section and annually~~ NOT LATER THAN
23 MARCH 31, 1995, AND EACH MARCH 31 after that time, the department
24 shall report to the legislature the impact of the operation of
25 this section, including a report concerning recidivism

26 ~~(10) This section is repealed upon the expiration of 3~~
27 ~~years after the date of its enactment~~