

A bill to amend 1927 PA 175, entitled
"The code of criminal procedure,"
by amending section 3b of chapter XI and section 19a of chapter
XV (MCL 771.3b and 775.19a), section 3b of chapter XI as amended
by 1994 PA 426 and section 19a of chapter XV as amended by 1982
PA 203.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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CHAPTER XI

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Sec. 3b. (1) In addition to any other terms or conditions

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of probation provided for under this chapter, the court may

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require under a probation order that a person convicted of a

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crime, except a crime specified in subsection (17), for which a

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sentence in a state correctional facility may be imposed shall

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satisfactorily complete a program of incarceration in a special

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alternative incarceration unit, and a period of not less than 120

1 days of probation under intensive supervision. The special
2 alternative incarceration program shall be established and oper-
3 ated by the department of corrections as provided in the special
4 alternative incarceration act, ~~Act No. 287 of the Public Acts of~~
5 ~~1988, being sections 798.11 to 798.18 of the Michigan Compiled~~
6 ~~Laws~~ 1988 PA 287, MCL 798.11 TO 798.18. The court also may
7 require the person to satisfactorily complete a local residential
8 program of vocational training, education, and substance abuse
9 treatment, pursuant to subsection (9) or (10).

10 (2) In order for a person to be placed in a special alterna-
11 tive incarceration program, the person shall meet all of the fol-
12 lowing requirements:

13 (a) The person has never served a sentence of imprisonment
14 in a state correctional facility.

15 (b) The person would likely be sentenced to imprisonment in
16 a state correctional facility.

17 (c) The felony sentencing guidelines upper limit for the
18 recommended minimum sentence for the person's offense is 12
19 months or more, as determined by the department. This subdivi-
20 sion does not apply in either of the following circumstances:

21 (i) The person's offense is not covered by the felony sen-
22 tencing guidelines.

23 (ii) The reason for the person being considered for place-
24 ment is that he or she violated the conditions of his or her
25 probation.

26 (d) The person is physically able to participate in the
27 special alternative incarceration program.

1 (e) The person does not appear to have any mental ~~handicap~~
2 DISABILITY that would prevent participation in the special alter-
3 native incarceration program.

4 (3) Subsection (2)(b) and (c) do not prevent the department
5 of corrections from entering into contracts with counties for
6 participation in the county jail special alternative carcera-
7 tion program. The county jail special alternative program is a
8 program in which convicted felons who would have been sentenced
9 to a county jail with a sentence of 6 to 12 months can
10 participate.

11 (4) Before a court may place a person pursuant to this sec-
12 tion, an initial investigation shall be completed by the proba-
13 tion officer. The initial investigation shall establish that the
14 person meets the requirements of subsection (2)(a) ~~to~~ AND (b).

15 (5) After a person is placed in a special alternative incar-
16 ceration program, the department shall establish that the person
17 meets the requirements of subsection (2). If the person does not
18 meet the requirements of subsection (2), the person shall be
19 returned to the court for sentencing. The placement of a person
20 in a special alternative incarceration program is conditioned
21 upon the person meeting the requirements of subsection (2). If a
22 person does not meet the requirements of subsection (2), the pro-
23 bation order is rescinded, and the person shall be sentenced in
24 the manner provided by law.

25 (6) A person shall not be placed in a program of special
26 alternative incarceration unless the person consents to the
27 placement.

1 (7) In every case in which a person is placed in a special
2 alternative incarceration program, the clerk of the sentencing
3 court shall, within 5 working days after the placement, mail to
4 the department of corrections a certified copy of the judgment of
5 sentence and the presentence investigation report of the person
6 being placed.

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

20 (9) The order of probation under subsection (1) may require
21 that a person who successfully completes a special alternative
22 incarceration program also successfully complete an additional
23 period of not more than 120 days of residential treatment in the
24 local governmental jurisdiction from which the person was commit-
25 ted, beginning immediately upon completion of the special alter-
26 native incarceration program, if the local unit of government has
27 created a residential program providing vocational training,

1 education, and substance abuse treatment, designed in whole or in
2 part for persons who complete a program of special alternative
3 incarceration.

4 (10) The order of probation under subsection (1) may autho-
5 rize the department of corrections to require a person who suc-
6 cessfully completes a special alternative incarceration program
7 to also successfully complete an additional period of not more
8 than 120 days of residential treatment in a program operated by
9 the department of corrections pursuant to section 4(2) of the
10 special alternative incarceration act, ~~Act No. 287 of the Public~~
11 ~~Acts of 1988, being section 798.14 of the Michigan Compiled Laws~~
12 1988 PA 287, MCL 798.14. A probationer sentenced pursuant to
13 subsection (9) is not eligible for residential treatment pursuant
14 to this subsection.

15 (11) An order of probation under subsection (1) that
16 requires an additional period of residential treatment upon com-
17 pletion of the special alternative incarceration program shall be
18 considered to be entered pursuant to subsection (9).

19 (12) A person who successfully completes a program of spe-
20 cial alternative incarceration shall be placed on probation under
21 intensive supervision for a period of not less than 120 days.
22 The period of probation under intensive supervision shall begin
23 upon the completion of the program of special alternative incar-
24 ceration, unless the person has been ordered to complete an addi-
25 tional program of residential treatment as described in subsec-
26 tion (9) or (10), in which case the period of probation under

1 intensive supervision shall begin upon completion of the program
2 of residential treatment.

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

9 (14) A term of special alternative incarceration shall be
10 served in the manner provided in the special alternative incar-
11 ceration act, ~~Act No. 287 of the Public Acts of 1988, being sec-~~
12 ~~tions 798.11 to 798.18 of the Michigan Compiled Laws~~ 1988 PA
13 287, MCL 798.11 TO 798.18.

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

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

22 (17) A person who is convicted of any of the following
23 crimes shall not be eligible for placement in the special alter-
24 native incarceration program:

25 (a) ~~Section~~ A CRIME DESCRIBED IN SECTION 145c, 520b, 520c,
26 520d, or 520g of the Michigan penal code, ~~Act No. 328 of the~~
27 ~~Public Acts of 1931, being sections 750.145c, 750.520b, 750.520c,~~

1 ~~750.520d, and 750.520g of the Michigan Compiled Laws~~ 1931 PA
2 328, MCL 750.145C, 750.520B, 750.520C, 750.520D, AND 750.520G.

3 (b) Section 72, 73, or 75 of ~~Act No. 328 of the Public Acts~~
4 ~~of 1931, being sections 750.72, 750.73, and 750.75 of the~~
5 ~~Michigan Compiled Laws~~ THE MICHIGAN PENAL CODE, 1931 PA 328, MCL
6 750.72, 750.73, AND 750.75.

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

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CHAPTER XV

10 Sec. 19a. If an accused person is about to be examined or
11 tried and it appears to the judge that the person is incapable of
12 adequately understanding the charge or presenting a defense to
13 the charge because of a lack of ability to understand or speak
14 the English language, the inability to adequately communicate by
15 reason of being mute, or because the person suffers from a speech
16 defect or other physical defect which ~~handicaps~~ IMPAIRS the
17 person in maintaining his or her rights in the case, the judge
18 shall appoint a qualified person to act as an interpreter.
19 Except as provided in the deaf persons' interpreter act, the
20 interpreter shall be compensated for his or her services in the
21 same amount and manner as is provided for interpreters in section
22 19 of this chapter.