

HOUSE BILL No. 4184

January 31, 2007, Introduced by Rep. Condino and referred to the Committee on Judiciary.

A bill to amend 1953 PA 232, entitled "Corrections code of 1953," by amending section 34a (MCL 791.234a), as amended by 1998 PA 315.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 34a. (1) A prisoner sentenced to an indeterminate term of
2 imprisonment under the jurisdiction of the department, regardless
3 of when he or she was sentenced, shall be considered by the
4 department for placement in a special alternative incarceration
5 unit established under section 3 of the special alternative
6 incarceration act, 1988 PA 287, MCL 798.13, if the prisoner meets
7 the eligibility requirements of subsections (2) and (3). For a
8 prisoner committed to the jurisdiction of the department on or
9 after March 19, 1992, the department shall determine before the
10 prisoner leaves the reception center whether the prisoner is

1 eligible for placement in a special alternative incarceration unit,
2 although actual placement may take place at a later date. A
3 determination of eligibility does not guarantee placement in a
4 unit.

5 (2) To be eligible for placement in a special alternative
6 incarceration unit, the prisoner shall meet all of the following
7 requirements:

8 (a) The prisoner's minimum sentence does not exceed either of
9 the following limits, as applicable:

10 (i) 24 months or less for a violation of section 110 of the
11 Michigan penal code, 1931 PA 328, MCL 750.110, if the violation
12 involved any occupied dwelling house.

13 (ii) 36 months or less for any other crime.

14 ~~—— (b) The prisoner has never previously been placed in a special~~
15 ~~alternative incarceration unit as either a prisoner or a~~
16 ~~probationer, unless he or she was removed from a special~~
17 ~~alternative incarceration unit for medical reasons as specified in~~
18 ~~subsection (6).~~

19 (B) ~~(e)~~ The prisoner is physically able to participate in the
20 program.

21 (C) ~~(d)~~ The prisoner does not appear to have any mental
22 disability that would prevent participation in the program.

23 (D) ~~(e)~~ The prisoner is serving his or her first **OR SECOND**
24 prison sentence.

25 (E) ~~(f)~~ At the time of sentencing, the judge did not prohibit
26 participation in the program in the judgment of sentence.

27 (F) ~~(g)~~ The prisoner is otherwise suitable for the program, as

1 determined by the department.

2 (G) ~~(h)~~—The prisoner **HAS NOT SERVED, AND** is not serving, a
3 sentence for any of the following crimes:

4 (i) A violation of section 11, 49, 80, 83, 89, 91, 157b, 158,
5 207, 260, 316, 317, 327, 328, 335a, 338, 338a, 338b, 349, 349a,
6 350, 422, 436, 511, ~~516, 517,~~ 520b, 529, 529a, 531, or 544 of the
7 Michigan penal code, 1931 PA 328, MCL 750.11, 750.49, 750.80,
8 750.83, 750.89, 750.91, 750.157b, 750.158, 750.207, 750.260,
9 750.316, 750.317, 750.327, 750.328, 750.335a, 750.338, 750.338a,
10 750.338b, 750.349, 750.349a, 750.350, 750.422, 750.436, 750.511,
11 ~~750.516, 750.517,~~ 750.520b, 750.529, 750.529a, 750.531, and
12 750.544.

13 (ii) A violation of section 145c, 520c, 520d, or 520g of the
14 Michigan penal code, 1931 PA 328, MCL 750.145c, 750.520c, 750.520d,
15 and 750.520g.

16 (iii) A violation of section 72, 73, or 75 of the Michigan penal
17 code, 1931 PA 328, MCL 750.72, 750.73, and 750.75.

18 (iv) A violation of section 86, 112, 136b, 193, 195, 213, 319,
19 321, 329, or 397 of the Michigan penal code, 1931 PA 328, MCL
20 750.86, 750.112, 750.136b, 750.193, 750.195, 750.213, 750.319,
21 750.321, 750.329, and 750.397.

22 (v) A violation of section 2 of 1968 PA 302, MCL 752.542.

23 (vi) An attempt to commit a crime described in subparagraphs
24 (i) to (v).

25 (vii) A violation occurring on or after January 1, 1992, of
26 section 625(4) or (5) of the Michigan vehicle code, 1949 PA 300,
27 MCL 257.625.

1 (viii) A crime for which the prisoner was punished pursuant to
2 section 10, 11, or 12 of chapter IX of the code of criminal
3 procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

4 (3) A prisoner who is serving a sentence for a violation of
5 section 7401 or 7403 of the public health code, 1978 PA 368, MCL
6 333.7401 and 333.7403, and who has previously been convicted for a
7 violation of section 7401 or 7403(2)(a), (b), or (e) of the public
8 health code, 1978 PA 368, MCL 333.7401 and 333.7403, is not
9 eligible for placement in a special alternative incarceration unit
10 until after he or she has served the equivalent of the mandatory
11 minimum sentence prescribed by statute for that violation.

12 (4) If the sentencing judge prohibited a prisoner's
13 participation in the special alternative incarceration program in
14 the judgment of sentence, that prisoner shall not be placed in a
15 special alternative incarceration unit. If the sentencing judge
16 permitted the prisoner's participation in the special alternative
17 incarceration program in the judgment of sentence, that prisoner
18 may be placed in a special alternative incarceration unit if the
19 department determines that the prisoner also meets the requirements
20 of subsections (2) and (3). If the sentencing judge neither
21 prohibited nor permitted a prisoner's participation in the special
22 alternative incarceration program in the judgment of sentence, and
23 the department determines that the prisoner meets the eligibility
24 requirements of subsections (2) and (3), the department shall
25 notify the judge or the judge's successor, the prosecuting attorney
26 for the county in which the prisoner was sentenced, and any victim
27 of the crime for which the prisoner was committed if the victim has

1 submitted to the department a written request for any notification
2 pursuant to section 19(1) of the **WILLIAM VAN REGENMORTER** crime
3 victim's rights act, 1985 PA 87, MCL 780.769, of the proposed
4 placement of the prisoner in the special alternative incarceration
5 unit not later than 30 days before placement is intended to occur.
6 The department shall not place the prisoner in a special
7 alternative incarceration unit unless the sentencing judge, or the
8 judge's successor, notifies the department, in writing, that he or
9 she does not object to the proposed placement. In making the
10 decision on whether or not to object, the judge, or judge's
11 successor, shall review any impact statement submitted pursuant to
12 section 14 of the **WILLIAM VAN REGENMORTER** crime victim's rights
13 act, 1985 PA 87, MCL 780.764, by the victim or victims of the crime
14 of which the prisoner was convicted.

15 (5) Notwithstanding subsection (4), a prisoner shall not be
16 placed in a special alternative incarceration unit unless the
17 prisoner consents to that placement and agrees that the department
18 may suspend or restrict privileges generally afforded other
19 prisoners including, but not limited to, the areas of visitation,
20 property, mail, publications, commissary, library, and telephone
21 access. However, the department may not suspend or restrict the
22 prisoner's access to the prisoner grievance system.

23 (6) A prisoner may be placed in a special alternative
24 incarceration program for a period of not less than 90 days or more
25 than 120 days. If, during that period, the prisoner misses more
26 than 5 days of program participation due to medical excuse for
27 illness or injury occurring after he or she was placed in the

1 program, the period of placement shall be increased by the number
2 of days missed, beginning with the sixth day of medical excuse, up
3 to a maximum of 20 days. However, the total number of days a
4 prisoner may be placed in this program, including days missed due
5 to medical excuse, shall not exceed 120 days. A medical excuse
6 shall be verified by a physician's statement. A prisoner who is
7 medically unable to participate in the program for more than 25
8 days shall be returned to a state correctional facility but may be
9 reassigned to the program if the prisoner meets the eligibility
10 requirements of subsections (2) and (3).

11 (7) Upon certification of completion of the special
12 alternative incarceration program, the prisoner shall be placed on
13 parole. A prisoner paroled under this section shall have conditions
14 of parole as determined appropriate by the parole board and shall
15 be placed on parole for not less than 18 months, or the balance of
16 the prisoner's minimum sentence, whichever is greater, with at
17 least the first 120 days under intensive supervision.

18 (8) The parole board may suspend or revoke parole for any
19 prisoner paroled under this section subject to sections 39a and
20 40a. For a prisoner other than a prisoner subject to disciplinary
21 time, if parole is revoked before the expiration of the prisoner's
22 minimum sentence, less disciplinary credits, the parole board shall
23 forfeit, pursuant to section 33(13) of 1893 PA 118, MCL 800.33, all
24 disciplinary credits that were accumulated during special
25 alternative incarceration, and the prisoner shall be considered for
26 parole pursuant to section 35.

27 (9) On March 19, 1993, and annually after that time, the

1 department shall report to the legislature the impact of the
2 operation of this section, including a report concerning
3 recidivism.