

SENATE BILL No. 861

December 1, 2011, Introduced by Senators JONES, SCHUITMAKER, MARLEAU and GREEN 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 added by 2010 PA 194.

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
11 eligible for placement in a special alternative incarceration unit,

1 although actual placement may take place at a later date. A
2 determination of eligibility does not guarantee placement in a
3 unit.

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

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

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

12 (ii) Thirty-six months or less for any other crime.

13 (b) The prisoner has never previously been placed in a special
14 alternative incarceration unit as either a prisoner or a
15 probationer, unless he or she was removed from a special
16 alternative incarceration unit for medical reasons as specified in
17 subsection (7).

18 (c) The prisoner is physically able to participate in the
19 program.

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

22 (e) The prisoner is serving his or her first prison sentence.

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

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

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

1 following crimes:

2 (i) A violation of section 11, 49, 80, 83, 89, 91, 157b, 158,
3 207, 260, 316, 317, 327, 328, 335a, 338, 338a, 338b, 349, 349a,
4 350, 422, 436, 511, 520b, 529, 529a, 531, or 544 of the Michigan
5 penal code, 1931 PA 328, MCL ~~750.11~~, 750.49, 750.80, 750.83,
6 750.89, 750.91, 750.157b, 750.158, 750.207, 750.260, 750.316,
7 750.317, 750.327, 750.328, 750.335a, 750.338, 750.338a, 750.338b,
8 750.349, 750.349a, 750.350, 750.422, 750.436, 750.511, 750.520b,
9 750.529, 750.529a, 750.531, and 750.544.

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

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

15 (iv) A violation of section 86, 112, 136b, 193, 195, 213, 319,
16 321, 329, or 397 of the Michigan penal code, 1931 PA 328, MCL
17 750.86, 750.112, 750.136b, 750.193, 750.195, 750.213, 750.319,
18 750.321, 750.329, and 750.397.

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

20 (vi) An attempt to commit a crime described in subparagraphs
21 (i) to (v).

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

25 (viii) A crime for which the prisoner was punished ~~pursuant to~~
26 **UNDER** section 10, 11, or 12 of chapter IX of the code of criminal
27 procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

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

9 (4) If the sentencing judge prohibited a prisoner's
10 participation in the special alternative incarceration program in
11 the judgment of sentence, that prisoner shall not be placed in a
12 special alternative incarceration unit. If the sentencing judge
13 permitted the prisoner's participation in the special alternative
14 incarceration program in the judgment of sentence, that prisoner
15 may be placed in a special alternative incarceration unit if the
16 department determines that the prisoner also meets the requirements
17 of subsections (2) and (3). If the sentencing judge neither
18 prohibited nor permitted a prisoner's participation in the special
19 alternative incarceration program in the judgment of sentence, and
20 the department determines that the prisoner meets the eligibility
21 requirements of subsections (2) and (3), the department shall
22 notify the judge or the judge's successor, the prosecuting attorney
23 for the county in which the prisoner was sentenced, and any victim
24 of the crime for which the prisoner was committed if the victim has
25 submitted to the department a written request for any notification
26 ~~pursuant to~~ **UNDER** section 19(1) of the William Van Regenmorter
27 crime victim's rights act, 1985 PA 87, MCL 780.769, of the proposed

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

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

21 (6) Notwithstanding subsections (4) and (5), a prisoner shall
22 not be placed in a special alternative incarceration unit unless
23 all of the following conditions are met for the prisoner at the
24 special alternative incarceration unit:

25 (a) Upon entry into the special alternative incarceration
26 unit, a validated risk and need assessment from which a prisoner-
27 specific transition accountability plan and prisoner-specific

1 programming during program enrollment are utilized.

2 (b) Interaction with community-based service providers through
3 established prison in-reach services from the community to which
4 the prisoner will return is utilized.

5 (c) Prisoner discharge planning is utilized.

6 (d) Community follow-up services are utilized.

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

22 (8) Upon certification of completion of the special
23 alternative incarceration program, the prisoner shall be placed on
24 parole. A prisoner paroled under this section shall have conditions
25 of parole as determined appropriate by the parole board and shall
26 be placed on parole for not less than 18 months, or the balance of
27 the prisoner's minimum sentence, whichever is greater, with at

1 least the first 120 days under intensive supervision.

2 (9) The parole board may suspend or revoke parole for any
3 prisoner paroled under this section subject to sections 39a and
4 40a. For a prisoner other than a prisoner subject to disciplinary
5 time, if parole is revoked before the expiration of the prisoner's
6 minimum sentence, less disciplinary credits, the parole board shall
7 forfeit, ~~pursuant to~~ **UNDER** section 33(13) of 1893 PA 118, MCL
8 800.33, all disciplinary credits that were accumulated during
9 special alternative incarceration, and the prisoner shall be
10 considered for parole ~~pursuant to~~ **UNDER** section 35.

11 (10) The department shall report annually to the legislature
12 the impact of the operation of this section, including a report
13 concerning recidivism.

14 (11) The department shall contract annually for third-party
15 evaluations that report on both of the following:

16 (a) The implementation of the requirements of subsection (6).

17 (b) The success of the special alternative incarceration
18 program as revised under subsection (6), as evidenced by the extent
19 to which participants subsequently violate the conditions of their
20 parole, have their orders of parole revoked, or revictimize as
21 evidenced by being arrested or convicted for new offenses,
22 absconding from parole, or having outstanding warrants.

23 (12) Each prisoner or probationer placed in the special
24 alternative incarceration program shall fully participate in the
25 Michigan prisoner reentry initiative.

26 ~~—— (13) This section is repealed effective September 30, 2012.~~