



HOUSE BILL No. 5436

March 23 1994 Introduced by Reps Profit Rivers Schroer Hammerstrom Mathieu
Bender Freeman Pitoniak and McNutt and referred to the Committee on 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 WAS SENTENCED shall be considered by the department
10 for placement in a special alternative incarceration unit estab-
11 lished under section 3 of the special alternative incarceration
12 act, Act No 287 of the Public Acts of 1988 being section 798 13
13 of the Michigan Compiled Laws, if the prisoner meets the eligi-
14 bility requirements of ~~subsections~~ SUBSECTION (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 incarcer-
20 ation 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 prisoner s minimum sentence does not exceed ~~either~~
2 ~~of the following limits as applicable~~ 60 MONTHS
3 ~~(1) 24 months or less for a violation of section 110 of the~~
4 ~~Michigan penal code Act No 110 of the Public Acts of 1931,~~
5 ~~being section 750 110 of the Michigan Compiled Laws, if the vio~~
6 ~~lation involved any occupied dwelling house as that term is~~
7 ~~defined in that section~~

8 ~~(11) 36 months or less for any other crime~~

9 (b) The prisoner has never previously been placed in a spe-
10 cial alternative incarceration unit as either a prisoner or a
11 probationer unless he or she was removed from a special alterna-
12 tive incarceration unit for medical reasons as specified in
13 subsection ~~(6)~~ (5)

14 (c) The prisoner is physically able to participate in the
15 program

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

18 (e) The prisoner is serving his or her first prison
19 sentence UNLESS THE SENTENCING JUDGE SPECIFICALLY RECOMMENDED IN
20 THE JUDGMENT OF SENTENCE THAT THE PRISONER BE PLACED IN A SPECIAL
21 ALTERNATIVE INCARCERATION UNIT

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

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

17 (iii) ~~(iv)~~ A violation of section ~~86, 112,~~ 136b 193
18 195 ~~213,~~ OR 319 ~~321 329 or 397~~ of Act No 328 of the
19 Public Acts of 1931 being sections ~~750 86 750 112~~ 750 136b
20 750 193 750 195 ~~750 213~~ AND 750 319 ~~, 750 321 750 329 and~~
21 ~~750 397~~ of the Michigan 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 ~~(vi) An attempt to commit a crime described in subparagraphs~~
26 ~~(i) 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 (1v) ~~(viii)~~ A crime for which the prisoner was punished
6 pursuant to section 10 11 or 12 of chapter IX of the code of
7 criminal procedure Act No 175 of the Public Acts of 1927 being
8 sections 769 10 769 11 and 769 12 of the Michigan Compiled
9 Laws, UNLESS THE SENTENCING JUDGE SPECIFICALLY RECOMMENDED IN THE
10 JUDGMENT OF SENTENCE THAT THE PRISONER BE PLACED IN A SPECIAL
11 ALTERNATIVE INCARCERATION UNIT

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

22 (3) ~~(4)~~ If the sentencing judge prohibited a prisoner s
23 participation in the special alternative incarceration program in
24 the judgment of sentence, that prisoner shall not be placed in a
25 special alternative incarceration unit If the sentencing judge
26 permitted the prisoner s participation in the special alternative
27 incarceration program in the judgment of sentence that prisoner

1 may be placed in a special alternative incarceration unit if the
2 department determines that the prisoner also meets the require-
3 ments of ~~subsections~~ SUBSECTION (2) ~~and (3)~~ If the sentenc-
4 ing judge neither prohibited nor permitted a prisoner s partici-
5 pation in the special alternative incarceration program in the
6 judgment of sentence and the department determines that the
7 prisoner meets the eligibility requirements of ~~subsections~~
8 SUBSECTION (2), ~~and (3)~~, the department shall notify the judge
9 or the judge s successor the prosecuting attorney for the county
10 in which the prisoner was sentenced and any victim of the crime
11 for which the prisoner was committed if the victim has submitted
12 to the department a written request for any notification pursuant
13 to section 19(1) of the crime victim s rights act Act No 87 of
14 the Public Acts of 1985 being section 780 769 of the Michigan
15 Compiled Laws of the proposed placement of the prisoner in the
16 special alternative incarceration unit not later than 30 days
17 before placement is intended to occur The department shall not
18 place the prisoner in a special alternative incarceration unit
19 unless the sentencing judge or the judge s successor notifies
20 the department in writing that he or she does not object to the
21 proposed placement In making the decision on whether or not to
22 object, the judge or judge s successor shall review any impact
23 statement submitted pursuant to section 14 of Act No 87 of the
24 Public Acts of 1985, being section 780 764 of the Michigan
25 Compiled Laws, by the victim or victims of the crime of which the
26 prisoner was convicted

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

9 (5) ~~-(6)-~~ A prisoner may be placed in a special alternative
 10 incarceration program for a period of not less than 90 days or
 11 more than 120 days If, during that period, the prisoner misses
 12 more than 5 days of program participation due to medical excuse
 13 for 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~~ SUBSECTION (2) ~~and (3)-~~

24 (6) ~~-(7)-~~ Upon certification of completion of the special
 25 alternative incarceration program the prisoner shall be placed
 26 on parole A prisoner paroled under this section shall have
 27 conditions of parole as determined appropriate by the parole

1 board and shall be placed on parole for not less than 18 months
2 or the balance of the prisoner s minimum sentence whichever is
3 greater, with at least the first 120 days under intensive
4 supervision

5 (7) ~~(8)~~ The parole board may suspend or revoke parole for
6 any prisoner paroled under this section subject to sections 39a
7 and 40a If parole is revoked before the expiration of the
8 prisoner s minimum sentence less disciplinary credits the
9 parole board shall forfeit all disciplinary credits granted pur-
10 suant to section 33(13) of Act No 118 of the Public Acts of
11 1893 being section 800 33 of the Michigan Compiled Laws, that
12 were accumulated during special alternative incarceration, and
13 the prisoner shall be considered for parole pursuant to
14 section 35

15 (8) ~~(9) One year after the effective date of the 1992 amen-~~
16 ~~datory act that added this section and annually~~ NOT LATER THAN
17 MARCH 31 1995 AND EACH MARCH THIRTY-FIRST after that time the
18 department shall report to the legislature the impact of the
19 operation of this section including a report concerning
20 recidivism

21 (9) ~~(10)~~ This section is repealed ~~upon the expiration of~~
22 ~~3 years after the date of its enactment~~ EFFECTIVE MARCH 19,
23 1998