

HOUSE BILL No. 5442

April 17, 2014, Introduced by Reps. Dillon, Lamonte, Brinks, Greimel, Abed, Faris,
Bumstead, Rogers and Haugh 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 2012 PA 259.

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

1 after March 19, 1992, the department shall determine before the
2 prisoner leaves the reception center whether the prisoner is
3 eligible for placement in a special alternative incarceration unit,
4 although actual placement may take place at a later date. A
5 determination of eligibility does not guarantee placement in a
6 unit.

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

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

12 (i) Twenty-four months or less for a violation of section 110
13 or 110a of the Michigan penal code, 1931 PA 328, MCL 750.110 and
14 750.110a, if the violation involved any occupied dwelling house.

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

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

21 (c) The prisoner is physically able to participate in the
22 program.

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

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

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

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

3 (h) The prisoner is not serving a sentence for any of the
4 following crimes:

5 (i) A violation of section 49, 80, 83, 89, 91, 157b, 158, 207,
6 260, 316, 317, 327, 328, 335a, 338, 338a, 338b, 349, 349a, 350,
7 422, 436, 511, 520b, 529, 529a, 531, or 544 of the Michigan penal
8 code, 1931 PA 328, MCL 750.49, 750.80, 750.83, 750.89, 750.91,
9 750.157b, 750.158, 750.207, 750.260, 750.316, 750.317, 750.327,
10 750.328, 750.335a, 750.338, 750.338a, 750.338b, 750.349, 750.349a,
11 750.350, 750.422, 750.436, 750.511, 750.520b, 750.529, 750.529a,
12 750.531, and 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 under section
2 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927
3 PA 175, MCL 769.10, 769.11, and 769.12.

4 **(ix) A CRIME THAT WOULD BE A VIOLENT CRIME AS DEFINED IN THE**
5 **FEDERAL BUREAU OF INVESTIGATION'S UNIFORM CRIME REPORTING PROGRAM,**
6 **AS DETERMINED BY THE DEPARTMENT.**

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

15 (4) If the sentencing judge prohibited a prisoner's
16 participation in the special alternative incarceration program in
17 the judgment of sentence, that prisoner shall not be placed in a
18 special alternative incarceration unit. If the sentencing judge
19 permitted the prisoner's participation in the special alternative
20 incarceration program in the judgment of sentence, that prisoner
21 may be placed in a special alternative incarceration unit if the
22 department determines that the prisoner also meets the requirements
23 of subsections (2) and (3). If the sentencing judge neither
24 prohibited nor permitted a prisoner's participation in the special
25 alternative incarceration program in the judgment of sentence, and
26 the department determines that the prisoner meets the eligibility
27 requirements of subsections (2) and (3), the department shall

1 notify the judge or the judge's successor, the prosecuting attorney
2 for the county in which the prisoner was sentenced, and any victim
3 of the crime for which the prisoner was committed if the victim has
4 submitted to the department a written request for any notification
5 under section 19(1) of the William Van Regenmorter crime victim's
6 rights act, 1985 PA 87, MCL 780.769, of the proposed placement of
7 the prisoner in the special alternative incarceration unit. The
8 notices shall be sent not later than 30 days before placement is
9 intended to occur. **THE NOTICE TO THE VICTIM SHALL INCLUDE**
10 **INFORMATION INFORMING THE VICTIM OF HIS OR HER RIGHT TO SUBMIT A**
11 **VICTIM IMPACT STATEMENT TO THE SENTENCING JUDGE OR THE JUDGE'S**
12 **SUCCESSOR UNDER SECTION 14 OF THE WILLIAM VAN REGENMORTER CRIME**
13 **VICTIM'S RIGHTS ACT, 1985 PA 87, MCL 780.764.** The department shall
14 not place the prisoner in a special alternative incarceration unit
15 unless the sentencing judge, or the judge's successor, notifies the
16 department, in writing, that he or she does not object to the
17 proposed placement. In making the decision on whether or not to
18 object, the judge, or judge's successor, shall review any impact
19 statement submitted under section 14 of the William Van Regenmorter
20 crime victim's rights act, 1985 PA 87, MCL 780.764, by the victim
21 or victims of the crime of which the prisoner was convicted.

22 (5) Notwithstanding subsection (4), a prisoner shall not be
23 placed in a special alternative incarceration unit unless the
24 prisoner consents to that placement and agrees that the department
25 may suspend or restrict privileges generally afforded other
26 prisoners including, but not limited to, the areas of visitation,
27 property, mail, publications, commissary, library, and telephone

1 access. ~~However, the~~ **THE** department may not suspend or restrict the
2 prisoner's access to the prisoner grievance system.

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

7 (a) Upon entry into the special alternative incarceration
8 unit, a validated risk and need assessment from which a prisoner-
9 specific transition accountability plan and prisoner-specific
10 programming during program enrollment are utilized.

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

14 (c) Prisoner discharge planning is utilized.

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

16 (7) A prisoner may be placed in a special alternative
17 incarceration program for a period of not less than 90 days or more
18 than 120 days. If, during that period, the prisoner misses more
19 than 5 days of program participation due to medical excuse for
20 illness or injury occurring after he or she was placed in the
21 program, the period of placement shall be increased by the number
22 of days missed, beginning with the sixth day of medical excuse, up
23 to a maximum of 20 days. ~~However, the~~ **THE** total number of days a
24 prisoner may be placed in this program, including days missed due
25 to medical excuse, shall not exceed 120 days. A medical excuse
26 shall be verified by a physician's statement. A prisoner who is
27 medically unable to participate in the program for more than 25

1 days shall be returned to a state correctional facility but may be
2 reassigned to the program if the prisoner meets the eligibility
3 requirements of subsections (2) and (3).

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

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

20 (10) The department shall report annually to the legislature
21 the impact of the operation of this section, including a report
22 concerning recidivism.

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

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

26 (b) The success of the special alternative incarceration
27 program as revised under subsection (6), as evidenced by the extent

1 to which participants subsequently violate the conditions of their
2 parole, have their orders of parole revoked, or revictimize as
3 evidenced by being arrested or convicted for new offenses,
4 absconding from parole, or having outstanding warrants.

5 (12) Each prisoner or probationer placed in the special
6 alternative incarceration program shall fully participate in the
7 Michigan prisoner reentry initiative.