

**SFA**

BILL ANALYSIS

MAR 08 1990

Senate Fiscal Agency

Lansing, Michigan 48909

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Senate Bill 197 (as enrolled)

PUBLIC ACT 303 of 1989

Senate Bill 652 (as enrolled)

PUBLIC ACT 304 of 1989

Sponsor: Senator Ed Fredricks (Senate Bill 197)

Sponsor: Senator Jack Welborn (Senate Bill 652)

Senate Committee: Criminal Justice and Urban Affairs

House Committee: Corrections

Date Completed: 1-31-89  
90SUMMARY OF SENATE BILLS 197 and 652 as enrolled:

Senate Bills 197 and 652 would amend the Special Alternative Incarceration Act and the Code of Criminal Procedure, respectively, to increase the maximum length of placement in a special alternative incarceration (SAI) program and require an additional period of intensive probation after completion of an SAI program; to revise some of the conditions that must be met for a court to order a probationary placement in an SAI program; and to provide for such a placement to be considered void under certain circumstances.

Senate Bill 197 would extend the maximum length of SAI placement from 90 days to 120 days. In addition, the bill would require that an SAI probationer also complete a period of at least 120 days of probation under intensive supervision. The bill also specifies that a probationer could be required to complete a period of up to 120 days in a local residential program, if ordered to do so under the Code of Criminal Procedure.

Senate Bill 652 would require that a person placed in an SAI program complete an additional period of at least 120 days of probation under intensive supervision. The bill specifies that the court also could require the probationer to complete satisfactorily a local residential program of education, vocational training, and substance abuse treatment.

Currently, to be eligible for placement in a special alternative incarceration program, a person must be between 17 and 25 years old. The bill would delete the minimum age restriction. The Code requires that a person placed in an SAI program otherwise would likely be sentenced to imprisonment; the bill would remove a requirement that a court consider sentencing guidelines, and would require, instead, that the guidelines' upper limit for a minimum term be at least 12 months. This provision would not apply to offenses not covered by sentencing guidelines or to a person who was being considered for SAI placement because of a probation violation. The bill also specifies that these requirements would not prevent the Department of Corrections from contracting with counties for participation in the county jail special alternative incarceration program, and that the "county jail special alternative program" would be one in which convicted felons who otherwise would have been sentenced to six to 12 months could participate.

If a person does not meet the Code's requirements for SAI placement, he or she

S.B. 197 &amp; 652 (1-31-90)

must be returned to the court for sentencing. The bill specifies that placement would be conditioned on meeting those requirements and that if a person did not qualify, the probation order would be rescinded and the person would have to be sentenced in the manner provided by law. The bill also specifies that if a person placed in an SAI program missed more than five days' participation due to a medical excuse or illness or injury that occurred after placement, the period of placement would have to be increased by the number of missed days, beginning with the sixth day and extending no more than 20 days. Medical excuses would have to be verified by a physician's statement and a copy of the statement would have to be provided to the sentencing court. If a person placed in an SAI program were medically unable to participate for more than 25 days, he or she would have to be returned to the court for sentencing. Although the Code prohibits placement in an SAI program more than once, if a person were returned to the court for sentencing because of a medical condition that existed at the time of placement, the court could order placement in an SAI program again after the medical condition was corrected.

An SAI placement order could require that a probationer who completed the program successfully also complete an additional period of up to 120 days of residential treatment in the local governmental jurisdiction from which he or she was committed. Such a program would have to begin immediately after release from the SAI program if the local unit had a residential program that provided vocational training, education, and substance abuse treatment designed for persons who had completed an SAI program. A person who successfully completed an SAI program would have to be placed on probation under intensive supervision for at least 120 days. The period of probation would have to begin upon completion of the SAI program unless the person had been ordered to complete a local residential treatment program as described above. If local residential treatment had been ordered, intensive probation would have to begin upon completion of the treatment program.

MCL 798.14 (S.B. 197)  
771.3b (S.B. 652)

Legislative Analyst: P. Affholter

#### FISCAL IMPACT

The bills would result in a GF/GP expenditure increase of between \$180,000 and \$1,692,000 for the State in FY 1989-90 based on the following assumptions:

- The annual capacity of the program would be reduced from 480 to 360 as a result of increasing the length of the program to 120 days from the current 90 days.
- The sentencing judge would impose a period of not less than 120 days of intensive probation at an average cost of \$500 per probationer.
- The sentencing judge, could require a period of not more than 120 days in a local residential program at an average cost of \$35 per day.

The State's potential cost increase would be \$180,000 if there were no residential bed requirement and \$1,692,000 if all probationers were required to spend a period of 120 days in a residential program.

Fiscal Analyst: W. Burghardt

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.