

# HOUSE BILL No. 5854

June 5, 1990, Introduced by Reps. Fitzgerald, Nye, Martin, Bandstra, Walberg, Law, Muxlow, Wartner, Ouwinga, Dolan, Kulchitsky, DeMars and Crandall and referred to the Committee on Judiciary.

A bill to provide for alternative detention and correction centers for persons convicted of drunk driving and related offenses; to prescribe certain powers and duties of the department of corrections and certain other state agencies and officials; to create a fund; and to repeal this act on a specific date.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as "the  
2 drunk driver detention and correction center act".

3       Sec. 2. As used in this act:

4       (a) "Advisory council" means the drunk driver detention and  
5 correction advisory council established under section 6.

6       (b) "Bureau" means the bureau of drunk driver detention and  
7 correction centers created by section 3.

1 (c) "Convicted drunk driver" means a person convicted of 1  
2 or more of the following:

3 (i) A violation of section 625(1) or (2) or 625b of the  
4 Michigan vehicle code, Act No. 300 of the Public Acts of 1949,  
5 being sections 257.625 and 257.625b of the Michigan Compiled  
6 Laws, or of a local ordinance substantially corresponding to 1 of  
7 those sections.

8 (ii) Felonious driving, negligent homicide, or manslaughter,  
9 if the offense resulted from the operation of a motor vehicle  
10 while the person was impaired by or under the influence of intox-  
11 icating liquor or a controlled substance or a combination of  
12 intoxicating liquor and a controlled substance, or had a blood  
13 alcohol content of 0.10% or more by weight of alcohol.

14 (d) "Department" means the department of corrections.

15 (e) "Drunk driver detention and correction center" or  
16 "center" means a correctional facility operated by the department  
17 to provide treatment and rehabilitative services to drunk drivers  
18 ordered confined at the center under section 3d of chapter XI of  
19 the code of criminal procedure, Act No. 175 of the Public Acts of  
20 1927, being section 771.3d of the Michigan Compiled Laws.

21 Sec. 3. The bureau of drunk driver detention and correction  
22 centers is created within the department. The bureau shall be  
23 under the direction and supervision of an assistant department  
24 director who is designated by the director of corrections.

25 Sec. 4. (1) The department, through the bureau, shall do  
26 all of the following:

1 (a) Establish by rule standards for the effective treatment  
2 and rehabilitation of convicted drunk drivers involved with  
3 substance abuse, including alcoholism, within the context of con-  
4 finement at a drunk driver detention and correction center.  
5 Standards shall be established by emergency rule within 6 months  
6 after the effective date of this act. Upon the adoption of emer-  
7 gency rules, the bureau shall promulgate permanent rules. In  
8 addition to other provisions, the rules shall provide that a con-  
9 victed drunk driver may leave the center to attend a vocational  
10 training program, a high school degree program, colleges classes,  
11 a community service assignment, or the driver's regular  
12 employment.

13 (b) Establish and administer the first center with a minimum  
14 of 50 beds within 9 months after the effective date of this act.

15 (c) Administer and coordinate, through direct operation or  
16 by contract, or both, sufficient centers to serve the needs of  
17 each county in the state. Where the director of corrections  
18 determines there is not a sufficient number of alcohol or  
19 drug-related traffic offenses in a particular county to warrant  
20 placement of a center in that county, the director shall provide  
21 for the convicted drunk drivers who are residents of that county  
22 to be confined at a center in another county.

23 (d) Promulgate rules creating security and confinement stan-  
24 dards at the centers.

25 (2) Rules promulgated under this section shall be promul-  
26 gated pursuant to the administrative procedures act of 1969, Act

1 No. 306 of the Public Acts of 1969, being sections 24.201 to  
2 24.328 of the Michigan Compiled Laws.

3       Sec. 5. In addition to other duties and responsibilities  
4 prescribed by this act, the department, through the bureau, may  
5 do any of the following:

6       (a) Cooperate with agencies of federal, state, and local  
7 government in connection with drunk driver rehabilitation  
8 programs.

9       (b) Make contracts necessary and incidental to the operation  
10 of drunk driver detention and correction centers throughout the  
11 state. The contracts may be with private agencies, organi-  
12 zations, and individuals and with other public agencies, includ-  
13 ing community mental health and local public health departments.

14       Sec. 6. The governor shall appoint a drunk driver detention  
15 and correction advisory council consisting of 9 members. The  
16 members shall serve for terms of 6 years, except that of the mem-  
17 bers first appointed, 3 shall serve for 6 years, 3 shall serve  
18 for 5 years, and 3 shall serve for 4 years. The advisory council  
19 shall include representatives from the fields of psychology, med-  
20 icine, law enforcement, alcohol rehabilitation, and highway  
21 safety, and shall include representatives from the office of the  
22 secretary of state, mothers against drunk driving, and the  
23 judiciary. The governor shall appoint the chairperson of the  
24 advisory council. A member of the advisory council shall not be  
25 compensated unless he or she is a classified civil servant, but  
26 shall be reimbursed for actual and necessary expenses incurred in  
27 the performance of his or her duties as a member of the advisory

1 council. The advisory council shall meet at such times as the  
2 chairperson may direct. A vacancy on the advisory council shall  
3 be filled in the same manner as the original appointment. A  
4 member appointed to fill a vacancy created other than by expira-  
5 tion of a term shall be appointed for the balance of the unex-  
6 pired term.

7       Sec. 7. The advisory council shall do all of the  
8 following:

9       (a) Advise the department with respect to the development of  
10 standards for operating a center.

11       (b) Develop a standard profile of the persons likely to  
12 receive the greatest benefit from confinement at a center.

13       (c) At the request of the director of corrections, review  
14 and evaluate any aspect of the program for treatment and rehabil-  
15 itation of convicted drunk drivers established by this act.

16       Sec. 8. (1) The business that the advisory council performs  
17 shall be conducted at a public meeting held in compliance with  
18 the open meetings act, Act No. 267 of the Public Acts of 1976,  
19 being sections 15.261 to 15.275 of the Michigan Compiled Laws.  
20 Public notice of the time, date, and place of the meeting shall  
21 be given in the manner required by Act No. 267 of the Public Acts  
22 of 1976.

23       (2) A writing prepared, owned, used, in the possession of,  
24 or retained by the advisory council in the performance of an  
25 official function shall be made available to the public in com-  
26 pliance with the freedom of information act, Act No. 442 of the

1 Public Acts of 1976, being sections 15.231 to 15.246 of the  
2 Michigan Compiled Laws.

3       Sec. 9. (1) A center shall prepare a treatment plan for  
4 each person ordered confined in the center under section 3d of  
5 chapter XI of the code of criminal procedure, Act No. 175 of the  
6 Public Acts of 1927, being section 771.3d of the Michigan  
7 Compiled Laws, within 10 days after the person is confined in the  
8 center. At 60-day intervals after the plan is prepared, the  
9 director of the center that confines the person shall prepare or  
10 have prepared a written evaluation of the person's behavior and  
11 progress at the center.

12       (2) A copy of the treatment plan and of each evaluation  
13 shall be transmitted to the court that ordered the person con-  
14 fined, the prosecuting attorney, and the person confined at the  
15 center or person's counsel, if any, within 72 hours after comple-  
16 tion of the plan or evaluation.

17       Sec. 10. (1) The drunk driver detention and correction  
18 center fund is created as a separate revolving fund in the state  
19 treasury. Money shall be deposited in the fund as provided by  
20 law. Any unexpended balance in the fund at the close of the  
21 fiscal year shall not revert to the general fund but shall remain  
22 in the revolving fund for future expenditures in accordance with  
23 subsection (2).

24       (2) The fund shall be administered by the bureau and shall  
25 be used to pay for the costs of operating centers that are  
26 directly administered by the bureau and to pay for other  
27 administrative costs of the bureau, including costs incurred by

1 the advisory council and its members and any costs incurred under  
2 a contract.

3 (3) The director of corrections may, in the name of the  
4 state, accept a grant of money or a gift or bequest of money made  
5 for the purposes of this act and shall deposit the money in the  
6 fund.

7 (4) The state treasurer shall invest the money in the fund  
8 in the same manner that surplus funds are invested under  
9 section 3 of Act No. 105 of the Public Acts of 1855, being sec-  
10 tion 21.143 of the Michigan Compiled Laws. Earnings of those  
11 investments shall be deposited in and credited to the fund.

12 Sec. 11. (1) Not later than December 31, 1995, the director  
13 of corrections, in conjunction with the secretary of state and  
14 the director of the department of state police, shall conduct a  
15 study to measure the effectiveness of this act in reducing traf-  
16 fic offenses involving alcohol.

17 (2) The director of corrections shall submit a report to the  
18 legislature, the governor, and, if reestablished, the drunk driv-  
19 ing task force created by section 625j of the Michigan vehicle  
20 code, Act No. 300 of the Public Acts of 1949, being section  
21 257.625j of the Michigan Compiled Laws, not later than June 30,  
22 1996. The report shall be based on the study required by this  
23 section.

24 Sec. 12. This act is repealed effective December 31, 1996.

25 Sec. 13. This act shall take effect January 1, 1991.

26 Sec. 14. This act shall not take effect unless all of the  
27 following bills of the 85th Legislature are enacted into law:

1 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 5855 (request  
2 no. 01762'89 a).

3 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 5856 (request  
4 no. 01762'89 b).

5 (c) Senate Bill No. \_\_\_\_\_ or House Bill No. 5857 (request  
6 no. 01762'89 c).

7 (d) Senate Bill No. \_\_\_\_\_ or House Bill No. 5858 (request  
8 no. 01762'89 d).