House Legislative Analysis Section
Romney Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

PRISONS: ALLOW MINOR SIBLINGS TO VISIT INMATES

House Bill 4456 as passed by the House
Second Analysis (9-19-97)

Sponsor: Rep. Michael Prusi
Committee: Corrections

THE APPARENT PROBLEM:

The maintenance and control of Michigan's prisons and the prisoners housed there are under the jurisdiction of the Department of Corrections. Within the framework of state law, the department runs the prison system for the state. As part of its work the department has established rules for prisoners' visits with their friends and family. In August of 1995, the Department of Corrections made changes in its administrative rules changing its policy regarding prisoners' visits with non-prisoners. This change in policy was in part due to problems the department noted with its less restrictive visitation policy and from an incident in Muskegon where an inmate sexually abused a child in a visiting room.

The new visitation policy allows a prisoner to be visited only by members of his or her immediate family and up to ten others included by the prisoner on his or her list of approved visitors. The department's definition of immediate family members is restricted to a grandparent, parent, stepparent, spouse, mother- or father-in-law, child, stepchild, grandchild, sibling, stepbrother or sister, and aunts and uncles (if verification can be provided that they served as surrogate parents). In addition, the policy is very restrictive about visits from minors. A prisoner's list of approved visitors cannot include anyone under the age of 18, unless the minor is the child, stepchild, or grandchild of the prisoner, or is an emancipated minor. If the child is not emancipated, the department's policy bars the child from visiting the prisoner unless accompanied by an adult family member or legal guardian. It is argued that this policy is too restrictive because it bars minor siblings, step siblings, and half brothers or sisters from visiting a prisoner.

THE CONTENT OF THE BILL:

The bill would amend the Department of Corrections act to provide that a minor (a person under the age of 18) who was a prisoner's child, stepchild, grandchild, brother, sister, stepbrother, stepsister, half brother or half sister, or an emancipated minor could be placed on the prisoner's approved visitor list and thus could visit the prisoner.

However, the bill would also state that in spite of the provision allowing such visits, a minor could be barred from visiting a prisoner under any of the following circumstances:

* The prisoner's parental rights to the child or stepchild had been legally terminated.

* The prisoner's custodial and visitation rights to the child or stepchild had been denied as part of a divorce decree. (Note: The term "visitation" in many statutes was changed to "parenting time" in legislation enacted last session.)

* A court order prohibited the prisoner from visiting with the minor.

* The prisoner had been convicted of child abuse, criminal sexual conduct, or any other assaultive or violent behavior against the minor or a sibling of the minor. However, the director of the department could make an exception and grant specific approval for a visit.

MCL 791.268

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill could could present administrative costs for the Department of Corrections. (9-18-97).

ARGUMENTS:

For:

The bill would allow a prisoner to be visited while in prison by certain members of his or her family that are currently barred from visiting. A prisoner cannot be visited by his or her own siblings if the sibling is a minor, whether they are brothers and sisters, or stepbrothers and stepsisters, or half brothers and half

sisters. While there may be some circumstances where a prisoner's contact with minors or with particular minors should be limited, the current broad prohibition is unfair. The current restrictions harm not only the prisoner, by isolating him or her from his or her family, but also can harm the child by destroying his or her relationship with a sibling.

Against:

There seems to be no good reason for broadening the list of persons that may visit prisoners. If anything, there seems to be better reason to further restrict minors from being allowed in prison settings as visitors, particularly in light of the incident in Muskegon where a child was sexually molested during a prison visitation. A better change would be to restrict minors from visiting inmates without specific permission from a parent or guardian other than the inmate.

Against:

On the contrary, the bill doesn't go far enough. The current rules limiting visits are too severe and were instituted in an unfair response to the negative publicity from the incident in Muskegon. Inmates' contacts with friends and family outside of prison help in the rehabilitation process. Having contact with people outside helps inmates from becoming too much a part of the prison culture and keeps them from losing touch with the outside world. Not every prisoner is a monster deserving to be isolated from all contact with the outside world, and if a prisoner has friends and family who wish to visit him or her, provided the visits can be controlled and are carried out in an appropriate fashion, those visits should be allowed. While the Department of Corrections has every right to limit visits where there is a threat to security, it has no right to simply restrict visits from minor siblings because the department feels a child would be better off not associating with prisoners.

POSITIONS:

The American Friends Service Committee supports the bill. (7-11-97)

The Michigan Corrections Organization supports the bill. (7-10-97)

The Michigan Appellate Assigned Counsel supports the bill. (7-9-97)

The Department of Corrections supports allowing minor siblings to visit prisoners; however, it opposes the House-passed version of the bill because it does not allow the department to terminate or prohibit visits when violations of department rules occur. (7-10-97)

Analyst: W. Flory

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.