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SFA



BILL ANALYSIS

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Senate Bills 1218 through 1224 (as introduced 6-25-98)
Sponsor: Senator Robert Geake (Senate Bill 1218)
Senator Bill Schuette (Senate Bill 1219)
Senator Michael J. Bouchard (Senate Bills 1220 & 1224)
Senator Loren Bennett (Senate Bill 1221)
Senator Jon Cisky (Senate Bill 1222)
Senator Mike Rogers (Senate Bill 1223)
Committee: Families, Mental Health and Human Services

Date Completed: 11-12-98

CONTENT

Senate Bills 1218 through 1224 would amend various acts to provide for the operation of a youth correctional facility by a private vendor, as authorized under the Department of Corrections (DOC) law (MCL 791.220g).

Senate Bill 1218 would amend the Mental Health Code; Senate Bill 1219 would amend the emancipation of minors Act; Senate Bill 1220 would amend the Michigan Penal Code; Senate Bill 1221 would amend the Code of Criminal Procedure; Senate Bill 1222 would amend the DOC law; Senate Bill 1223 would amend the prison code; and Senate Bill 1224 would amend Public Act 17 of 1909, which limits access to certain substances by prisoners and correctional facility employees.

Senate Bill 1218

The bill would include in the Mental Health Code's definition of "state correctional facility" a youth correctional facility operated by the DOC or a private vendor. The bill also would exclude from the Code's definition of "prisoner" a person on parole from a State correctional facility.

In addition, the bill would prohibit the officer in charge of a youth correctional facility operated by a private vendor from allowing a prisoner to transfer voluntarily to the corrections mental health program unless prior written approval of the transfer were given to the officer by the DOC Director or the Director's designee.

Senate Bill 1219

The bill would extend to a minor committed to the jurisdiction of the DOC and housed in a youth correctional facility operated by the DOC or a private vendor, limited emancipation for the purpose of consenting to preventive health care or medical care.

Under the Act, emancipation of a minor occurs by operation of law for the purpose of consenting to the minor's own preventive health care or medical care, including surgery, dental care, or mental health care, except vasectomies or any procedure related to reproduction, while the minor is a prisoner under the jurisdiction of the DOC or while the minor is a probationer residing in a special alternative incarceration unit (boot camp). Under the bill, that provision would apply to a minor while he or she was a prisoner committed to the DOC's jurisdiction and housed in a State correctional facility operated by the DOC or in a youth correctional facility operated by the Department or a private vendor, or while in a boot camp.

In addition, the Act's medical emancipation provision for minor prisoners applies only if a parent or guardian cannot be located promptly by the DOC. The bill would add, in the case of a youth correctional facility, if the parent or guardian could not promptly be located by the responsible official of the youth correctional facility.

The bill includes an effective date of January 1, 1998.

Senate Bill 1220

Housing of Prisoners

It is a misdemeanor violation under the Penal Code to place a child under 16 years old while under arrest, confinement, or conviction in an apartment or cell of a prison or place of confinement with an adult who is under arrest, confinement, or conviction, or to permit the child to remain a courtroom during the trial of adults, or to be transported in a vehicle in the company of adults charged with or convicted of a crime.

The bill would exclude from that provision prisoners being transported to or from, or confined in, a correctional facility operated by the DOC or a youth correctional facility operated by the DOC or a private vendor.

Escape from Prison

Under the Penal Code, it is a felony, punishable by up to five years' further imprisonment for a person imprisoned in a Michigan prison to break prison and escape, break prison without escaping, escape, leave the prison without being discharged by due process of law, attempt to break prison, or attempt to escape from prison. Under that provision, "prison" means a State prison, penitentiary, reformatory, State house of correction, community residential center operated or leased by the DOC, or penal camp other than a probation camp or probation recovery camp. Under the bill, prison would mean, instead, a facility that housed prisoners committed to the DOC's jurisdiction.

Concealed Weapon Authorization

The Penal Code provides that certain provisions regulating the possession, concealment, and transport of weapons do not apply to any person regularly employed by the DOC and authorized in writing by the DOC Director to carry a concealed weapon while in the official performance of his or her duties or while going to or returning from those duties. The bill would extend that exemption to a person employed by a private vendor that operated a youth correctional facility and who met criteria established by the DOC Director and was authorized in writing by the Director to carry a concealed weapon while in the official performance of his or her duties or while going to or returning from those duties.

Senate Bill 1221

Under the Code of Criminal Procedure, if a prisoner escapes from a State correctional facility or willfully fails to remain within the extended limits

of his or her confinement, the prisoner may be pursued and arrested, without a warrant, by any employee of the DOC who is designated by the DOC Director as having the authority to pursue and arrest escaped prisoners. The bill would extend that authorization to an employee of a private vendor that operated a youth correctional facility, if the employee met criteria established by the DOC Director. The bill also would include in that provision's definition of "state correctional facility" a youth correctional facility operated by the DOC or a private vendor.

Senate Bill 1222

Jurisdiction

The DOC law authorizes the Department to establish a youth correctional facility that may house only prisoners committed to the DOC's jurisdiction who are 19 years old or under and who were within the jurisdiction of the circuit court or the former Detroit Recorder's Court under either of the following:

- Provisions allowing a prosecutor to file criminal charges against a juvenile for certain offenses.
- Provisions for waiver of jurisdiction from the former juvenile division of probate court (juvenile court) or the family division of circuit court (family court) to the general criminal courts, authorizing a juvenile to be tried and sentenced as an adult.

The bill would add to that list those prisoners who were 19 or under and had been within the jurisdiction of the former juvenile court or the family court in a case designated under the juvenile code for criminal trial in the juvenile or family court.

Access to Records

The DOC law provides that all records and reports of investigations made by a probation officer, and all case histories of probationers, are privileged or confidential communications not open to public inspection. Judges and probation officers, however, have access to those records, reports, and case histories. Also, the probation officer, the DOC's assistant director of probation, or the assistant director's representative must permit the Attorney General, the Auditor General, and law enforcement agencies to have access to that information. The bill would include designated representatives of a private vendor that operated a youth correctional facility in the list of those who

must be given access.

Parole

The bill specifies that the term “state correctional facility” within the DOC law’s parole provisions would mean a facility that housed prisoners committed to the DOC’s jurisdiction and would include a youth correctional facility operated by the DOC or a private vendor.

Appointment of Wardens

The DOC law requires that wardens of correctional facilities be appointed by the DOC Director and that they be within the State civil service. The bill specifies that the term “correctional facility” within this provision would not include a youth correctional facility operated by a private vendor.

Workers’ Compensation and Supplemental Pay

The DOC law provides that, if a person employed in a correctional facility is injured as a result of an assault by a prisoner or during a riot, he or she must receive full wages from the DOC until workers’ compensation benefits begin. After receiving workers’ compensation benefits, the employee then must be paid a supplement by the DOC that, together with workers’ compensation benefits, equals the employee’s weekly net wage at the time of the injury. The supplement applies while the person is on the Department’s payroll and is receiving workers’ compensation benefits. Fringe benefits normally received by the employee also must be in effect during the time the employee receives a supplement.

The bill specifies that, for purposes of this provision, the term “correctional facility” would mean a facility that housed prisoners committed to the DOC’s jurisdiction, including a community corrections center, but would not include a youth correctional facility operated by a private vendor.

Secure Confinement and Supervision

The DOC law provides that a prisoner who is subject to disciplinary time and is committed to the DOC’s jurisdiction must be confined in a secure correctional facility for the duration of his or her minimum sentence, except for periods when the prisoner is away from the facility for certain specific reasons (e.g., attending a funeral or obtaining medical services not available at the facility) while being supervised by a DOC employee. The bill would include in that exception supervision by an

employee of a private vendor that operated a youth correctional facility.

Visitor Search

The DOC law prohibits subjecting a visitor to a State correctional facility to a pat-down search unless every person performing or assisting in the search is of the same gender as the person being searched. If the necessary personnel are not readily available, however, a visitor may choose to sign a waiver of this prohibition. The bill specifies that the term “state correctional facility” in this provision would include a youth correctional facility operated by the DOC or a private vendor.

Telephone Monitoring

The DOC law allows a correctional facility to monitor telephone communications over telephones available for use by prisoners in the facility if certain conditions are met. One of those conditions requires that the monitoring be routinely conducted by DOC employees. The bill, instead, would require that monitoring be performed by employees of the Department or, in the case of a youth correctional facility operated by a private vendor, by employees of the private vendor.

The bill also specifies that the term “correctional facility” in this provision would include a youth correctional facility operated by the DOC or a private vendor.

Senate Bill 1223

The prison code authorizes the officers of a prison to use all suitable means to defend themselves, enforce the observance of discipline, secure offenders, and prevent attempts to escape if one or more prisoners assaults or batters any officer or guard or other prisoner or damages or attempts to damage any part of the prison, or attempts to escape or resist or disobey any reasonable command. Under the bill, this provision would apply to a "correctional facility" rather than a "prison", and "correctional facility" would mean a facility that housed prisoners committed to the DOC's jurisdiction, including a youth correctional facility operated by the DOC or a private vendor.

Senate Bill 1224

The bill would include in the Act's definition of "correctional facility" a youth correctional facility operated by the DOC or a private vendor.

MCL 330.2001b & 330.2003b (S.B. 1218)
722.4 (S.B. 1219)
750.139 et al. (S.B. 1220)
764.23 (S.B. 1221)
791.220g et al. (S.B. 1222)
800.41 (S.B. 1223)
800.281a (S.B. 1224)

Legislative Analyst: P. Affholter

FISCAL IMPACT

These bills would allow the State to avoid certain expenditures that would be required under current law. For example, under current law, the State would have to appoint a Michigan Civil Service employee as warden, while paying the contractor for warden services through the contract. To the extent that the bills would allow employees of the contractor to perform functions that currently may be performed only by DOC employees, the State would not have to provide State employees for these functions.

Fiscal Analyst: K. Firestone

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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.