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**SFA**



**BILL ANALYSIS**

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Senate Bill 406 (Substitute S-2 as reported)  
Sponsor: Senator William Van Regenmorter  
Committee: Judiciary

### **CONTENT**

The bill would amend the Department of Corrections (DOC) law to refer to a section of the Revised Judicature Act proposed by Senate Bill 419, instead of Section 2963, in provisions requiring the DOC to remove amounts from a prisoner's institutional account if the prisoner is ordered by a court to make monthly payments on the balance of filing fees or costs. (Section 2963 currently provides for the payment of a prisoner's civil filing fees and costs from his or her institutional account. Senate Bill 419 would repeal and replace that section.)

The bill is tie-barred to Senate Bill 419, which proposes to add Chapter 55 ("Prisoner Litigation Reform") to the Revised Judicature Act, and to Senate Bill 500, which would amend the prison code to specify that a court could order the reduction or forfeiture of a prisoner's good time and/or disciplinary credits pursuant to Senate Bill 419.

MCL 791.268

Legislative Analyst: P. Affholter

### **FISCAL IMPACT**

Senate Bills 406 (S-2) and 419 (S-4) would have an indeterminate fiscal impact on State and local government.

<u>Calendar Year</u>	<u>Cases Filed</u>
1994	1,551
1995	1,796
1996	1,957
1997	1,852
1998 (estimated)	1,775

Table 1 summarizes information from the DOC's Statistical Report on the number of cases filed by prisoners against the Department and individuals. (Habeas corpus cases to bring the prisoner to court for appeal are not included in the statistics.) As seen in Table 1, the number of suits filed by prisoners increased from 1994 to 1996. In 1997 and 1998, the number of cases decreased. At each prison, 5% to 15% of the assistant-to-the-warden position is allocated to litigation coordination or obtaining documents for these cases. Additionally, the executive office assists the Attorney General in gathering documents for certain cases and establishes procedures for the litigation coordinators; this is estimated as one FTE in the office of hearings and policies.

The DOC maintains institutional accounts for prisoners in State prisons called fiduciary accounts. Currently, a report on the fiduciary account is forwarded to courts to determine whether a prisoner is indigent. The Department is responsible for assets held in the prison. Other assets held by a prisoner outside of the prison are the responsibility of the Department of Treasury or the Attorney General. To the extent that this process would continue under the proposed legislation, there would be no change in prison operations or operating costs.

To the extent that the definition of a prison as used in Senate Bill 419 (S-4) includes both State and local

facilities and that the definition of a prisoner as used in the bill includes those accused of, convicted of, sentenced for, or adjudicated delinquent for violations of State or local law or the terms and conditions of parole, probation, pretrial release, or a diversionary program, prisoner institutional accounts for facilities other than State prisons would have to be reviewed. Many offenders in local facilities or diversionary programs have minimal institutional accounts for canteen purchases or, in the case of residential programs, do not have institutional accounts.

Good time, which reduces the minimum sentence of the offender, could be revoked for the filing of certain false or aggravating cases. Unless otherwise prohibited, offenders who committed a crime prior to April 1, 1987, when good time was replaced with disciplinary credits, are subject to good time. There are no data to indicate how many prisoners still in the prison system are subject to good time. Additionally, some offenders serving in local facilities may reduce their minimum sentence with credits earned in programs that may be referred to as good time programs. With the bills' inclusion of local facilities, certain jail inmates could lose good time credits, increasing the time served by offenders and increasing local jail population.

The bills would result in additional administrative responsibilities for the State Court Administrative Office regarding tracking actions that were dismissed as nonmeritorious.

Date Completed: 4-26-99

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.