



**ALLOW MINORS TO VISIT PRISON  
INMATES**

**House Bill 4187 as introduced  
First Analysis (3-21-01)**

**Sponsor: Rep. Tony Stamas  
Committee: Criminal Justice**

***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 significant changes in its administrative rules regarding its policy on prisoners’ visits with non-prisoners. This change in policy resulted partly because of problems the department noted with its less restrictive visitation policy and partly because of an incident in Muskegon where an inmate sexually abused a child in a visiting room. Until 1995, any adult or child who was not individually barred from visiting for a particular reason, such as prior misconduct in the visiting room, could visit any prisoner during approved hours and under certain conditions. Children visited regularly. However, 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.

Many people object to the department’s definition of “immediate family member,” under the rules, which includes only grandparents, parents, stepparents, spouses, mothers- or fathers-in-law, children, stepchildren, grandchildren, siblings, stepbrothers or stepsisters, and aunts and uncles if verification can be provided that they served as surrogate parents (R 791.6609). 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, stepsiblings, and half brothers or half sisters from visiting a prisoner. A class action lawsuit is currently pending before a Detroit federal district court.

Meanwhile, legislation has been introduced that would change the policy regarding inmate visits by minor siblings.

***THE CONTENT OF THE BILL:***

The bill would add a new section to the Department of Corrections act to clarify the procedures regarding prisoner visits from minors (defined under the bill as persons under 18). The bill would specify that a prisoner could receive visits from a minor who was a brother, sister, stepbrother, stepsister, half-brother, or half-sister, provided that the minor was on the prisoner’s approved visitor list. Notwithstanding this provision, the Department of Corrections (DOC) could do any of the following:

- Place limits on visiting hours, establish reasonable rules of conduct, and establish uniform quotas at each institution for visits to prisoners to promote order and security in the institutions, and to prevent interference with institutional routine or disruption of a prisoner’s programming.
- Establish requirements for who must accompany the minor on the visit.
- Deny, restrict, or terminate visits as determined necessary by the department for the institution’s order and security.

MCL 791.268a

***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, the bill would have no significant fiscal impact on the Department of Corrections. (3-21-01)

**House Bill 4187 (3-21-01)**

**ARGUMENTS:****For:**

The bill would allow a prisoner to be visited while in prison by certain members of his or her family who are currently barred from visiting. Current policy bars brothers and sisters from visits if they are minors, whether they are brothers and sisters, 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.

**Response:**

As written, the bill would have little effect. The Department of Corrections would still be able to establish "uniform quotas at each institution for visits to prisoners" and "requirements for who must accompany the minor on a visit." The department could also "deny, restrict, or terminate visits, as it determines necessary." These provisions would take precedence over other provisions that would allow a prisoner visits from minor siblings.

**Against:**

There seems to be no good reason for broadening the list of persons that may visit prisoners. If anything, there seems to be more 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. It would make more sense 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 prison help in the rehabilitation process. Having contact with people outside prevents inmates from becoming too much a part of the prison culture and from losing touch with the outside world. Not every prisoner is a monster who deserves to be isolated from all contact with the outside world, and if a prisoner has friends and family who wish to visit, those visits should be allowed, provided they can be controlled and are carried out in an appropriate fashion. 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 believes a child would be better off not associating with prisoners.

**Against:**

Current policy, which restricts a prison inmate's visitors to certain members of his or her immediate family and persons named on lists of approved visitors, is unfair. A prisoner cannot be visited by his or her own siblings if they are minors. Other prisoners -- those who violate substance abuse rules -- are not allowed visitors at all. However, since the department established these policies through changing the administrative rules, some maintain that current policy should be reversed in the same manner. These were some of the concerns expressed by a representative of the American Friends Services Committee, a prisoner advocacy organization, in testimony before the House committee. The organization is also concerned that the bill might affect pending litigation on the issue (*Bazzetta, et al. v. McGinnis, et al.*), especially if it becomes law before the case is decided. The organization cautions that passage of the bill should be postponed until after the court case has been decided.

**Against:**

In testimony presented to the House committee, one of the attorneys representing the plaintiffs in *Bazzetta, et al. v. McGinnis, et al.*, a class action lawsuit currently pending before a Detroit federal district court, pointed out the following concerns with the bill:

- As written, the bill specifies only that the prisoner "may" be permitted to receive visits from minor siblings. Consequently, the department could deny permission for visits. However, plaintiffs in the lawsuit maintain that it is the responsibility of the child's parents, and not the department, to make this decision.
- The bill does not provide for nieces and nephews who are minors to visit inmates. The bill should acknowledge that prisoners often serve as a surrogate parent to nieces and nephews. Also, in many extended families, aunts and uncles play a key role in a child's life. Plaintiffs in the lawsuit maintain that a prisoner's adult siblings should determine whether or not their children should visit the inmate.
- The bill would allow the department to decide who must accompany a minor on a visit. This is also an

issue in the court case. Plaintiffs advocate that an adult who is on the prisoner's approved visitor list should accompany a minor child. This would allow the family flexibility in deciding whom to trust with their child while still allowing the department to turn away anyone who represented a threat to institutional security.

- The bill should specify that these visits be contact visits. Contact visits are prohibited at security levels 5 and 6, and when prohibited by a court order, but plaintiffs in the lawsuit maintain that visits by siblings should be contact visits.

- The plaintiff's attorney also questions the wisdom of the proposed legislation at a time when a decision is due from the federal court in *Bazzetta, et al. v. McGinnis, et al.*, at any time, and recommends that the bill specify an effective date of 30 days after the trial court decision in this court case.

**POSITIONS:**

The Department of Corrections supports the bill. (3-20-01)

The Michigan Corrections Organization supports the bill. (3-20-01)

The American Friends Service Committee supports policy changes allowing inmate visits from siblings, but would prefer that this be accomplished by changes in the administrative rules, rather than through legislation. (3-20-01)

Analyst: R. Young

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■ 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.