



Senate Fiscal Agency  
P. O. Box 30036  
Lansing, Michigan 48909-7536

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BILL ANALYSIS



Telephone: (517) 373-5383  
Fax: (517) 373-1986

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Senate Bill 50 (as reported by the Committee of the Whole)  
Sponsor: Senator Darwin L. Booher  
Committee: Michigan Competitiveness

Date Completed: 2-1-17

### **RATIONALE**

For a number of years, the Department of Corrections (DOC) operated programs in which prisoners under the DOC's jurisdiction were placed in county jails, in counties that had volunteered to participate in the program for reimbursement. The latest such program was discontinued when the 2016-17 fiscal year began on October 1, 2016. Many people believe that this type of program can be beneficial for both inmates transferred from DOC facilities and those sentenced to jail, and has the potential to produce savings to the State. Therefore, it has been suggested that the Department should be required by statute to establish a program of this nature.

### **CONTENT**

**The bill would amend the Corrections Code to do the following:**

- Require the Department of Corrections to implement a county jail bed savings program to house eligible prisoners.**
- Allow counties to participate in the program, and require the DOC to reimburse participating counties.**
- Require eligible prisoners to be in a least-restrictive classification, serving a fixed sentence with a determined discharge date, and not serving a sentence for a criminal sexual conduct offense.**

Specifically, the Department would have to implement a county jail bed savings program to house eligible prisoners sentenced to the custody of the DOC in county jails rather than in State correctional facilities.

A county could volunteer to participate in the program and house eligible prisoners sentenced to the custody of the DOC in its county jails. If a county volunteered to participate, the Department would have to reimburse it at a minimum rate of \$35 per day per prisoner. The Legislature, however, could negotiate the minimum rate of reimbursement with the counties participating in the program, and allot any adjustment in the minimum rate proportionately to the participating counties upon appropriation.

If a participating county had available bed space in its county jail and the DOC had in its custody prisoners meeting the bill's eligibility requirements, the Department could place the eligible prisoners in the county jail.

A prisoner who did not meet all of the following eligibility requirements could not be placed in a county jail under these provisions:

- The prisoner had been given a Level 1 classification by a Department classification committee on a scale of six levels in which Level 1 is the least restrictive.**

- The prisoner was not serving a sentence for a conviction of criminal sexual conduct in the first, second, third, or fourth degree or assault with intent to commit criminal sexual conduct, or an attempt to commit one of those offenses.
- The prisoner was serving a fixed sentence with a determined discharge date.

The bill would define "state correctional facility" as a facility or institution that is maintained or operated, or contracted for, by the Department of Corrections and that houses prisoners sentenced to the custody of the DOC.

The bill would take effect 90 days after its enactment.

Proposed MCL 791.265j

## **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

Some counties have excess jail capacity and would like the opportunity to house prisoners who are under the DOC's jurisdiction. In addition to benefitting these counties, this approach has the potential to ease prison crowding and save the Department money. The minimum reimbursement rate per day per prisoner would be \$35, subject to negotiation, while the average daily cost to the DOC for a Level 1 prisoner is \$80. Moreover, a county jail bed space program can enable counties to coordinate services more closely with the State, and expand services available to both county inmates and those transferred from DOC facilities. For example, with the reimbursement from the State, counties can provide programming in such areas as substance abuse, anger management, and restorative justice. Reportedly, the prisoners who were transferred to a county jail in the previous program were in their last year or two of incarceration. The transfer brought them closer to a local community, and placed them in a restrictive, stable environment that helped reintegrate them into society.

**Response:** Despite the difference in average daily costs, the DOC would save money under the program only if it enabled the Department to close a facility, which did not occur under the previous program. In fact, discontinuing the program is saving the Department a considerable amount of money. Also, under the DOC's existing reentry programs, inmates who are nearing release are transferred to facilities in the vicinity of their home communities. This was not necessarily the case when prisoners were transferred to county jails.

### **Opposing Argument**

Jails are designed to keep offenders in custody for short-term stays, not to house people for any length of time. In some counties, jails provide virtually no programming, have no recreational facilities, and allow only limited visitation. Although other counties might be able to offer programs and services, a jail typically is a very negative environment that does not prepare a long-term inmate for society. Remaining with the DOC, on the other hand, gives prisoners the advantages of the Department's reentry initiatives.

Legislative Analyst: Suzanne Lowe

## **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on State and local government. With a daily reimbursement rate of \$35 per prisoner, it would cost the Department of Corrections \$12,775 per prisoner per year to house offenders in county jails under the program. In the short term, the marginal cost to house a prisoner in a State correctional facility is approximately \$3,764 per year. However, the long term marginal cost is \$34,550 per prisoner per year. The cost for counties varies by facility and other factors, so it is unknown whether the program would have a positive or negative fiscal impact on local government, but it is reasonable to assume that only counties that would see a positive fiscal impact would participate. The program could produce savings for the State if there were enough participation by the counties to allow the Department to close a housing

unit or a facility. The average size of facilities that house large numbers of Level 1 security clearance inmates is approximately 1,770.

For a number of years, the Department has operated a leased beds program. A program similar to the one proposed by the bill, with offenders housed in jails in 14 counties at a cost of \$5,250,000 per year, was operated from January 2015 through September 2016. In the final year of the program, the participating counties' total capacity was 391 beds and counties were reimbursed \$35 per prisoner per day. The program was ended when fiscal year 2016-17 began, and the inmates were moved from county jails to State correctional facilities. The net saving to the State from ending the program is \$3,209,000 per year.

Fiscal Analyst: Ryan Bergan

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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.