

**SFA**

BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

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Senate Bills 187 through 197 (as reported without amendment)

Sponsor: Senator Jack Welborn (Senate Bills 187 and 192)

Senator Doug Carl (Senate Bills 188 and 193)

Senator Lana Pollack (Senate Bills 189 and 194)

Senator Rudy J. Nichols (Senate Bills 190 and 195)

Senator Christopher D. Dingell (Senate Bills 191 and 196)

Senator Ed Fredricks (Senate Bill 197)

Committee: Criminal Justice and Urban Affairs

Date Completed: 3-13-89

**RATIONALE**

Since the early 1950s, Michigan law has empowered the State Corrections Commission to determine corrections policies and programs. The Commission consists of five members from the general public, appointed to four-year terms by the Governor with the advice and consent of the Senate. The Commission is charged with appointing a Director of the Department of Corrections, who serves at the Commission's pleasure and has the responsibility to supervise the Department's affairs. While the relationship between the Commission and the Department has been characterized as one of "checks and balances" in which the Commission establishes policy and the Director executes that policy and administers the Department's day-to-day affairs, some claim that, in practice, the Director makes policy and the Commission merely gives it rubber-stamp approval. Further, some argue that the Commission's role has evolved from a once-useful policy-making function to a buffer between the Department and the Governor, the Legislature, and, ultimately, the electorate. These people contend that the Commission should be abolished in order to make the Department more accountable to elected officials and the public.

**CONTENT**

**Senate Bill 187** would amend the Executive Organization Act to require the

appointment of a Director of the Department of Corrections who, instead of the Corrections Commission, would head the Department. **Senate Bill 190** would repeal Public Act 195 of 1935. **Senate Bill 192** would amend the Department of Corrections Act to transfer administrative responsibilities of the Commission to the Director. **Senate Bills 188, 189, 191, and 193 through 197** would amend various acts to make them consistent with Senate Bill 187.

Senate Bills 188 through 197 are tie-barred to Senate Bill 187.

**Senate Bill 187**

The bill would amend the Executive Organization Act to require that a Director of the Department of Corrections be appointed by the Governor, with the advice and consent of the Senate, to serve at the pleasure of the Governor. The bill also would repeal two provisions of the Act (MCL 16.378 and 16.379) pertaining to the transfer of the Department and the composition of the Corrections Commission.

MCL 16.376

S.B. 187-197 (3-13-89)

### Senate Bill 190

The bill would repeal Public Act 195 of 1935, which established and regulates probation recovery camps.

MCL 798.1-798.6

### Senate Bill 192

The bill would amend the Department of Corrections Act to delete references to the Corrections Commission and provide for the Governor, rather than the Commission, to appoint a Director of the Department. The Department would consist of and be administered by, instead of the Commission, the Director and other officers and assistants appointed or employed by the Department. The Director also would be responsible for duties of the Commission specified in the Act, such as the administration of penal institutions, annual reporting to the Governor and the Legislature, site selection for correctional facilities, appointment of probation officers, and enforcement of order with respect to jails and lockups.

MCL 791.201 et al.

### Senate Bills 188, 189, 191 and 193-197

The bills would amend the following Acts to replace references to the Corrections Commission with references to the Department of Corrections or the Director:

- Public Act 325 of 1982, in regard to "rated design capacity" (i.e., the Department's determination of the actual available bed space of the general population) of a county jail. (Senate Bill 188)
- The Code of Criminal Procedure, in regard to the appointment of probation officers, and the failure to carry out the terms of a sentence reduced for time served upon a void sentence. (Senate Bill 189)
- The Correctional Officers' Training Act, in regard to membership on the correctional officers' training council and certification of State correctional officers. (Senate Bill 191)
- Public Act 181 of 1911, in regard to the

payment of prisoners for work on public projects. (Senate Bill 193)

- Public Act 17 of 1909, in regard to the definition of "prisoner" under that Act, which pertains to limiting prisoners' access to weapons, liquor, and controlled substances. (Senate Bill 194)
- The Correctional Industries Act, in regard to the employment of inmates. (Senate Bill 195)
- The State Correctional Facility Reimbursement Act, in regard to the determination of prisoners' cost of care. (Senate Bill 196)
- The Special Alternative Incarceration Act, in regard to special alternative incarceration units (work camps for young adult first-time offenders). (Senate Bill 197)

MCL 801.51 (S.B. 188)  
762.13 and 769.11a (S.B. 189)  
791.503 et al. (S.B. 191)  
800.101 (S.B. 193)  
800.281a (S.B. 194)  
800.323 et al. (S.B. 195)  
800.401a (S.B. 196)  
798.14 (S.B. 197)

### FISCAL IMPACT

Senate Bill 187 would reduce State GF/GP expenditures by \$1,350 per month in FY 1988-89 and \$16,200 in FY 1989-90. The bill would have no fiscal impact on local government.

Senate Bills 188 through 197 would have no fiscal impact on State or local government. (Although Senate Bill 190 would repeal an Act that authorizes the establishment of probation recovery camps, the Department has not operated such a camp for a number of years.)

### ARGUMENTS

#### Supporting Argument

The Corrections Commission is ineffective and unresponsive; its diffuse, fragmented authority has been inadequate to deal productively with the mounting problems of the State's corrections system. The Commission merely acts as a buffer, insulating the Department of Corrections from the Governor and the Legislature. As a result, the Department is unresponsive to public opinion. The

Commission should be dissolved in order to facilitate responsiveness to the Governor, the Legislature, and the electorate.

**Response:** The Commission does not insulate the Department from accountability to the Governor and the Legislature. The Governor and the Legislature have far more influence on the operation of the Department than does the Commission, due to their powers of appropriation.

#### **Supporting Argument**

Several other Department Directors are appointed, directly, by the Governor: this procedure is successfully applied to a majority of State departments, including the Departments of Social Services, Mental Health, and Public Health. The bills should be passed to make the appointment of the Department of Corrections' Director consistent with that practice.

#### **Opposing Argument**

Direct gubernatorial appointment of the Director could affect certain styles of management at the top levels, but little else would change. Also, being more susceptible to purely political influences, direct appointment could be more detrimental than the current process. The Commission system is a more professional approach to setting policy and appointing Department officials because the Commission consists of nonpartisan members who are knowledgeable in the corrections field.

#### **Opposing Argument**

The Corrections Commission was created in response to crisis conditions within the Department. Now, people claiming that the Department again is facing a crisis are calling for its abolition. The cycle merely would continue and some version of the Commission would be recreated in response to future emergencies. The Commission should be left intact.

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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.

SFA BILL ANALYSIS

Senate Bill 188

Analysis First

See SB 187

SFA BILL ANALYSIS

Senate Bill 189

Analysis First

See SB 187