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BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

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Senate Bill 49 (Substitute S-2 as reported)
Senate Bill 50 (Substitute S-3 as reported)
Sponsor: Senator Christopher D. Dingell (Senate Bill 49)
Senator Jack Welborn (Senate Bill 50)
Committee: Criminal Justice and Urban Affairs

Date Completed: 2-22-89

RATIONALE

Under current law, the Department of Corrections (DOC) is required to "supervise and inspect jails and lockups" under the jurisdiction of county sheriffs. The DOC is charged with promulgating rules and standards to promote "the proper, efficient, and humane administration" of such facilities, and the Corrections Commission is empowered to "enforce any reasonable order with respect to jails and lockups" subject to the DOC's supervision. Many people feel that the DOC's jurisdiction over county jails does not include adequate input from county officials and that there should be an entity composed of locally elected officials to make recommendation to the Commission regarding the operation and administration of county jails.

CONTENT

The bills would amend the Department of Corrections Act to require the DOC to develop standards for the administration of county jails and to create a "Jail Council" within the DOC. The bills are tie-barred and would take effect 90 days after their enactment.

Senate Bill 49 (S-2)

The bill would require the DOC to develop standards for inmate programs, jail facilities, and the humane treatment of jail inmates. The DOC also would have to monitor jails' compliance with the standards.

MCL 791.262

Senate Bill 50 (S-3)

The Jail Council would consist of six members appointed by the Corrections Commission, three of whom would have to be county sheriffs and two of whom would have to be county commissioners. Council members would serve for terms of three years, except that initial members' terms would be staggered. Council members could not receive compensation, but could be reimbursed for actual and reasonable expenses. The DOC would have to provide staff services and the Council would have to comply with the Open Meetings Act and the Freedom of Information Act.

The Council would have to recommend to the Corrections Commission the jail standards proposed by Senate Bill 49, procedures for jail inspections, and jail administrative rules. The DOC would have to notify the Council promptly of any jail standards or administrative rules before they were implemented.

Proposed MCL 791.262d

FISCAL IMPACT

Senate Bill 49 (S-2) would have no fiscal impact on State or local government.

Senate Bill 50 (S-3) could result in a State GF/GP expenditure increase of \$2,700 in FY 1988-89. The increase is based on reimbursing the six council members \$75 per day for reasonable expenses incurred attending monthly council meetings between April and September

S.B. 49 & 50 (2-22-89)

1989.

ARGUMENTS

Supporting Argument

Jails often are erroneously categorized along with prisons. Consequently, jails' training and funding needs have been overshadowed by those of the prison system. There are fundamental differences between the two types of facilities and between their operational and administrative services and needs. While the State's prisons house criminal offenders (generally felons) who have been sentenced to one or more years' imprisonment, jails must house both criminal offenders and civil offenders, generally serving less than one year's time, as well as accused offenders awaiting trial. In addition, Michigan's county jails vary widely with the population and geographic distinctions of the various counties--the needs and services of jails in some of the smaller, more rural counties differ from those of larger and more densely populated areas, such as Wayne County. These distinctions merit an advisory entity with more specialized expertise than is found within the DOC. County jails would be better served and more efficiently and appropriately regulated if a council, whose members represented locally elected officials who were familiar with the operation and administration of jails, were established to advise the Corrections Commission.

Supporting Argument

The DOC currently sets standards with which county jails must comply. Since such standards are uniform, all jails must meet them regardless of considerations as to individual characteristics and needs of the counties and their jails. Reportedly, it would cost tens of millions of dollars for all the State's county jails to come into compliance with the DOC's standards. The bills' advisory council approach to oversight of jails would allow for more detailed consideration of an individual jail's needs and resources and would permit the promulgation of more appropriately tailored standards with which jails would have to comply.

Opposing Argument

The bills do not go far enough. As proposed in Senate Bill 50 (S-3), the Council would be a strictly advisory body, with no authority to

establish and implement standards for county jails. While giving county officials a voice in the oversight of jails, the bills would not even require the Commission to consider the Council's recommendations, much less implement them; the Council would have no real power or authority. As originally introduced, on the other hand, the bills would have removed the regulatory and oversight responsibilities of the DOC and granted them to an autonomous council. In addition, although many county jails reportedly are in great need of upgrading to meet State standards, the substitute bills do not even address funding for such upgrading or reimbursements for housing State prisoners. The introduced version of Senate Bill 50, however, would have created a County Jail Improvement Fund for the improvement of county jail facilities, and would have authorized the Council to determine reimbursement rates from the State for the housing of State prisoners.

Response: There were several problems with the makeup of the bills as they were introduced. The autonomous council that Senate Bill 50's original version would have created would consist entirely of county officials who would control the spending of State funds, acting independently of State authority. This type of practice could set a dangerous precedent; locally-elected officials should not be given such discretion over State expenditures. In addition, while the original version of Senate Bill 50 would have created an improvement fund, it provided for no revenue source for that proposed fund. The substitute's proposed advisory Council is a much more desirable and realistic approach to involving local officials in decision-making pertaining to county jails' standards.

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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.