



**House
Legislative
Analysis
Section**

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COUNTY JAIL CELLS: EMERGENCY CAPACITY

House Bill 5217 (Substitute H-3)
Second Analysis (6-14-88)

RECEIVED

Sponsor: Rep. Justine Barns
Committee: Corrections

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THE APPARENT PROBLEM:

Public Act 325 of 1982, the jail overcrowding emergency powers act, specifies certain measures which must be taken to reduce jail population to 90 percent of rated design capacity (or a percentage of rated design capacity less than 90 percent, as set by a court prior to February 8, 1983) when an overcrowding state of emergency is declared. Reducing jail populations to 90 percent of capacity, however, has the result of leaving large number of beds vacant in large facilities. In Kent County jail, for example, the requirement results in a vacancy of 57 beds; in Oakland County jail, 90 beds, and in Wayne County jail, 187 beds. It is felt that the requirement should be changed to allow county sheriffs a more flexible manner of reducing jail capacity.

The act has also left confusion on the question of when prison population counts should be taken. If the jail population count is taken during the day, for example, those inmates who are working outside the jail would not be counted. The act needs to specify a certain time of day for population counts.

THE CONTENT OF THE BILL:

Public Act 325 of 1982 requires county jails to reduce county jail populations to 90 percent of rated design capacity (or a percentage of rated design capacity less than 90 percent, as set by a court prior to February 8, 1983) after an overcrowding state of emergency has been declared. The bill would amend the act to allow county jails the additional option of reducing the prisoner population to the point where those jails with rated design capacities of less than 500 beds left at least 10 empty beds, and jails with rated design capacities of more than 500 beds left at least 25 empty beds. The bill would also require prisoner population counts to be conducted between the hours of 12:01 a.m. and 4:00 a.m. on each day on which a count is conducted.

MCL 801.56 et al.

BACKGROUND INFORMATION:

House Bill 5217 was originally reported from the House Corrections committee in essentially this form on March 21, 1988, and was subsequently returned to committee. The bill was subsequently reported out of committee with an amendment that changed the 12:01 a.m. requirement for prisoner population counts to between 12:01 a.m. and 4:00 a.m.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no fiscal implications for the state. (3-22-88)

ARGUMENTS:

For:

At a time of prison and jail overcrowding in the state's history, it does not make sense to leave jail beds empty in order to fulfill the requirements that prisoner population

not exceed 90 percent of rated design capacity. The bill is necessary during these times to correct an oversight in the original legislation.

Against:

As originally introduced, the bill would have allowed counties to reduce jail population to 95 percent of capacity, instead of 90 percent of capacity, when an overcrowding state of emergency is declared. The committee substitute bill, however, only benefits 19 counties: those with the largest capacities. Those with capacities of less than 100 beds will be unaffected by the bill. In Eaton County, for example, present law provides that that county have 6 empty beds when an overcrowding situation exists (the county jail has 61 beds; 90 percent of capacity would mean that only 55 beds could be filled). In other words, for counties in which the bill provides an option of 10 free beds, the old option of 90 percent would be more beneficial.

Against:

The bill could create more problems than it would solve, since it would take only a short period of time for a jail to fill 10 or even 25 beds. As a result, the jail would have to declare an overcrowding state of emergency over and over again. Further, placing a time for population counts into statute would limit the flexibility of local sheriffs in this matter.

Response: The bill, as amended, now places the time for population counts at between 12:01 a.m. and 4:00 a.m. At that hour, presumably, all inmates would be asleep, and the count could be accomplished easily.

POSITIONS:

A representative of the Department of Corrections testified before the House Corrections Committee in support of the bill. (3-22-88)

The Michigan Sheriffs Association supports the bill. (6-13-88)

H.B. 5217 (6-14-88)