



**House
Legislative
Analysis
Section**

Washington Square Building, Suite 1025
Lansing, Michigan 48909
Phone 517/373-6466

COUNTY JAIL CELLS: EMERGENCY CAPACITY

House Bill 5217 as enrolled
Third Analysis (1-6-89)

RECEIVED

FEB 08 1989

Sponsor: Rep. Justine Barns
House Committee: Corrections
Senate Committee: Criminal Justice, Urban Affairs,
and Economic Development

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. If these initial measures fail to reduce a jail's population to that level, further reduction measures must be taken. 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 higher of either 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), or 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. If these measures failed to reduce the jail population to the required level, further reduction measures would have to be taken.

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. In addition the bill would require the Office of Facility Services of the Department of Corrections and the Michigan Sheriffs' Association to report to the legislature, not later than 18 months after the bill's effective date, on the effect of these changes for the 12 month period following the bill's enactment.

MCL 801.56 et al.

FISCAL IMPLICATIONS:

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

ARGUMENTS:

For:

The bill is necessary during these times to correct an oversight in the original legislation. 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 would allow a jail with a capacity of less than 100 to reduce its population to 90 percent of capacity, while a larger jail, with, for example, a capacity of between 100 and 500, could meet the standard for a minimum number of empty beds.

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.

H.B. 5217 (1-6-89)

H.B. 5217 (1-6-89)