

SFA



BILL ANALYSIS

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Senate Fiscal Agency

Lansing, Michigan 48909

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Senate Bill 106 (Substitute S-4)

Senate Bill 167 (as reported without amendment)

Senate Bill 168 (as reported without amendment)

Sponsor: Senator Nick Smith

First Committee: Criminal Justice, Urban Affairs, and Economic Development (Senate Bill 106)

Second Committee: Appropriations

Date Completed: 4-28-87

RATIONALE

Public Act 16 of 1978 provides for reimbursements to counties for expenses incurred by prosecuting attorneys in cases involving charges of new felony offenses committed by State prisoners during periods of, or escape from, incarceration; Public Act 232 of 1953 provides for reimbursements to counties for costs incurred in the prosecution of escape cases; and the Code of Criminal Procedure provides for the prosecution of persons who commit a criminal offense while confined in a penal or reformatory institution. Some people feel that the terms of reimbursements in such cases are inequitable. Currently, the Acts allow prosecutors of counties where State correctional facilities are located to bill the Department of Corrections (DOC) for expenses incurred in prosecuting new felonies charged to incarcerated or escaped prisoners. These reimbursements, however, are limited to \$300 for each case, and the maximum hourly rate to be charged is left to the discretion of the DOC, which has not increased this rate from \$25 per hour since 1978. Court appointed defense attorneys, on the other hand, are allowed to submit their expenses to the circuit court at unlimited rates with no maximum total figure; after review by the circuit court the bill is forwarded to the State Court Administrative Office and the defense attorney is reimbursed. Some believe that reimbursements for county prosecutors should be treated and processed consistently with those for court appointed defense attorneys, and that the provisions for reimbursement of costs should be consolidated into one Act.

Another provision of Public Act 16 of 1978 allows county jails to be reimbursed by the DOC for actual and reasonable costs incurred when housing an apprehended escaped State prisoner, an inmate who has not returned to a State facility pursuant to an agreement to do so, or a person who has violated terms of parole and has been apprehended under an order of the DOC. This type of refund is limited to \$20 per day, which some people feel is too low.

CONTENT

Senate Bill 106 (S-4) would amend Public Act 16 of 1978 to do the following:

- Delete the \$300 maximum on reimbursement of counties for the prosecution of new felony offenses charged to incarcerated or escaped State prisoners.
- Specify additional costs that could be reimbursed, including jurors' fees, witness fees, fees for attorneys appointed by the court for the defendant, and transcript fees.
- Provide for reimbursements to counties for costs incurred in cases of "escape from custody".

- Specify that fees paid to attorneys under the bill would have to be similar to fees paid to attorneys representing indigents.
- Increase the maximum amount of reimbursement to county jails for housing escaped State prisoners.
- Require itemized costs to be submitted to the State Court Administrator instead of the Department of Corrections.

Senate Bills 167 and 168 would amend Public Act 232 of 1953 and the Code of Criminal Procedure, respectively, to conform to Senate Bill 106, to which the bills are tie-barred.

Senate Bill 106 (S-4)

Currently, the Act requires the State to reimburse counties for costs incurred by prosecuting attorneys in cases of new felony offenses committed by inmates of State correctional facilities and new felonies committed during escape. In addition to removing the \$300 per case maximum, the bill would require the State to reimburse counties for costs incurred for jurors' fees, witness fees, fees of appointed defense attorneys, and transcript fees. Also, the bill would provide for reimbursements to counties for costs incurred in cases of "escape from custody", i.e., "wilful failure of a prisoner to remain within the extended limits of his confinement or to return within the time prescribed to an institution or facility designated by the director" (MCL 791.265a). The circuit court for each county would have to submit its itemized costs to the State Court Administrator, instead of the Department of Corrections; the Administrator, not the Department, would determine the reasonableness of the amount to be paid.

The bill also would increase from \$20 to \$35 the per day maximum amount that the Department of Corrections is required to reimburse a county for holding an apprehended State-committed prisoner who had escaped, not returned pursuant to an agreement, or violated the terms of his or her parole.

MCL 800.452 and 800.454

Senate Bill 167

The bill would amend Public Act 232 of 1953 to remove a requirement that the State "reimburse each county in which a state penal institution is located for reasonable costs incurred by that county in the prosecution of escape cases". The bill also would delete provisions that require each county's itemized costs to be submitted monthly to the Department of Corrections and that specify that the Department's determination of reasonableness is conclusive.

MCL 791.265a

S.B. 106, 167 & 168 (4-28-87)

Senate Bill 168

The Code of Criminal Procedure provides for the prosecution of persons who commit a criminal offense while confined in a penal or reformatory institution. Senate Bill 168 would amend the Code to delete a provision that specifies that, in such cases, "jurors' fees, witness fees and fees of attorneys appointed by the court under the statute, for the defendant, shall be approved by the circuit judge and audited and allowed by the board of state auditors and paid by the state treasurer upon the warrant of the auditor general".

MCL 768.7

FISCAL IMPACT

Senate Bill 106 (S-4) has the potential for increasing estimated revenue to local units by \$386,800 to \$895,905 in FY 1986-87 (on a full year basis) above the \$676,000 budgeted for these services. State GF/GP spending would increase accordingly.

The bill provides for three categories of State reimbursement to counties: (1) prosecuting attorney fees, (2) jurisdictional duty fees, and (3) county jail daily costs for housing State correctional facility escapees and parole violators. To estimate the fiscal implications of this legislation, State expenditures and case numbers for FY 1984-85, the most recent period for which data are available, were used to project FY 1986-87. A fiscal impact range is presented based on FY 1984-85's actual case numbers and average fees paid at the low end and modest growth rate assumptions for the upside estimate. (The county jail daily reimbursement fee reflects the proposed \$35 figure.) (See table following.)

Senate Bills 167 and 168 would have no fiscal impact on State or local government.

		FY 1986-87	
		Low	High
Jurisdictional	No. of Cases	825	1,000 a)
Fees:	Ave. Fee	\$348	\$383 b)
	Subtotal	\$287,375	\$383,000
Prosecution	No. of Cases	525	635 a)
Fees:	Ave. Fee	\$115	\$383 c)
	Subtotal	\$60,375	\$243,205
County Jail	Prisoner Days	20,430	27,020 d)
Fees:	Daily Fee	\$35	\$35
	Subtotal	\$715,050	\$945,700
	Total	\$1,062,800	\$1,571,905
Budgeted Appropriation FY 1986-87:		\$ (676,000)	\$ (676,000)
Net Increase in Revenue to Locals:		\$ 386,800	\$ 895,905

a) 10% annual growth rate
b) 5% annual growth rate
c) Prosecution Ave. fee reflects Jurisdictional Ave. fee
d) 15% annual growth, reflects 1984-85 average rate

ARGUMENTS

Supporting Argument

The bills would provide a more equitable delivery system for reimbursements to counties for costs incurred both in providing a defense for indigents and in prosecuting cases involving State prisoners. Currently, prosecutors are limited to \$300 for such cases, while reimbursements to defense attorneys are subject only to a "determination of reasonableness" by the State Court Administrator. Consequently, counties are forced to absorb prosecution costs beyond \$300. The State is the proper entity to absorb these costs since it is responsible for inmates in the State correctional system. By eliminating the maximum reimbursement for prosecutors' costs, Senate Bill 106 (S-4) properly would assign reimbursement costs fully to the State. Also, the office of the State Court Administrator is a more reasonable avenue for review of expenses incurred in court proceedings than is the DOC.

Supporting Argument

The current rate of reimbursement to county jails for housing escaped State prisoners is much too low. A recent study placed the average daily cost of housing for Michigan county jails at \$39.74, while the current maximum rate of reimbursement is only \$20. An increase of the maximum rate to \$35 would help counties to defray their costs.

Response: The study of housing costs was methodologically questionable. Some counties included all kinds of ancillary costs such as medical and dental treatment that may not have been necessary and overhead costs that were not incurred as a result of housing State prisoners.

Supporting Argument

By removing the provisions for reimbursements contained in Public Act 232 of 1953 and the Code of Criminal Procedure, and providing for those types of reimbursements in Public Act 16 of 1978, the bills would avoid any confusion that might arise due to duplicative provisions.

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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.