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BILL ANALYSIS

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House Bill 4621 (Substitute H-2 as reported without amendment)**Sponsor:** Representative Richard A. Sofio**House Committee:** Judiciary**Senate Committee:** Criminal Justice, Urban Affairs, and Economic Development**Date Completed:** 11-20-87**RATIONALE**

According to the Michigan Sheriffs' Association, escapes from jail are increasing. The problem has grown because greater numbers of felons are being lodged in county jails — one of the effects of overcrowding in the State's prisons. Although jails may house serious offenders, the penalty for escape from jail is a misdemeanor with a maximum penalty of one additional year, while the penalty for escape from prison is a felony punishable by up to five additional years in prison. Some feel that escape from jail also should be a felony offense.

CONTENT

House Bill 4621 (H-2) would amend the Michigan Penal Code to make it a felony for a person lawfully imprisoned in a jail to do any of the following:

- Break jail and escape.
- Break jail but not escape.
- Escape from jail.
- Leave the jail without being discharged lawfully.
- Attempt to escape from jail.

Under current law, such an infraction is a misdemeanor and, regardless of the sentence being served, is punishable by not more than one year's imprisonment. Under the bill, a prisoner who was guilty of one of the above offenses and was serving a misdemeanor sentence could be punished by up to two years' imprisonment, a fine of not more than \$1,000, or both. A prisoner who was serving a felony sentence would have to be imprisoned for the unexpired portion of the sentence he or she was serving at the time of the violation, and subsequently would have to serve a term of imprisonment imposed for a violation of the bill.

The bill would include identical provisions relative to a person being held while awaiting examination, trial, arraignment, or sentence. These provisions also would apply to escapes, breaks, or attempted escapes "while in or being transported to or from a courtroom or court house, or a place where court is being held". Under current law, such an infraction is a misdemeanor and, regardless of the sentence being served, is punishable by either not more than one year's imprisonment or a fine of not more than \$500.

The bill would not apply to a person who left the jail in compliance with a sentence that granted such a privilege during "necessary and reasonable hours" for the purpose of working, seeking work, conducting a self-employed business or occupation, attending an educational institution, or seeking medical treatment.

Under the bill, "jail" would mean "a facility...operated by a local unit of government for the detention of persons charged with, or convicted of, criminal offenses or ordinance violations, or persons found guilty of civil or criminal contempt".

MCL 750.195 and 750.197

FISCAL IMPACT

The bill could result in a State GF/GP expenditure increase of \$393,300 in FY 1987-88, \$2,452,100 in FY 1988-89 and \$3,853,200 in FY 1989-90 if all of the individuals were sentenced for two-year terms under the provisions of the bill.

Alternatively, if all of the individuals were sentenced to one-year jail terms, local expenditures would increase \$242,700 in FY 1987-88, \$1,259,600 in FY 1988-89 and \$1,057,500 in FY 1989-90.

The distinction between State and local expenditure impacts results from three primary factors: the date the bill would take effect during FY 1987-88, the number of felony convictions resulting from the provisions of the bill and, most significantly, the length of sentence imposed by the sentencing judge.

This analysis assumes that the bill would take effect by April 1, 1988, and that sentencing judges would avail themselves of the sentencing provisions on that date.

The second assumption, that of estimating the number of felony convictions that could result from the provisions of the bill, requires analysis of the number of individuals who escaped or attempted to escape from county jails. The following table summarizes the escape statistics for county jails for the calendar year periods 1980 through November 1987. The average annual number of escapes and attempted escapes from both secure and nonsecure facilities for the 1980-1987 period is 75.

H.B. 4621 (11-20-87)

County Jail Escapes^a

| Year | Secure Facilities | | Unsecure Facilities | | Total |
|------|-------------------|-----------------|---------------------|----------------|-----------------|
| | Successful | Unsuccessful | Successful | Unsuccessful | |
| 1980 | 39 | 12 | 25 | 3 | 69 |
| 1981 | 32 | 14 | 41 | 5 | 92 |
| 1982 | 26 | 14 | 30 | 2 | 72 |
| 1983 | 30 | 18 | 25 | 3 ^c | 76 |
| 1984 | 18 | 15 ^c | 25 | 3 ^c | 61 |
| 1985 | 41 | 15 ^c | 37 | 3 ^c | 96 |
| 1986 | 8 | 15 ^c | 22 | 3 ^c | 48 |
| 1987 | 37 | 15 ^c | 28 | 3 ^c | 83 ^b |

^aSource: Michigan Sheriffs Association and Department of Corrections.

^bA total of 74 based upon actual data through November 16, 1987, and projected for the balance of calendar year 1987 based on actual data.

^cAttempted escape data not compiled by the Department of Corrections after 1983. Attempted escapes for 1984-1987 based on averaging the previous four years data.

The third, and most significant, factor influencing the fiscal analysis of the bill is the length of sentence imposed by the sentencing judge. The next table summarizes the fiscal impact based on the assumption that all individuals would be sentenced to two year prison terms for the period FY 1987-88, FY 1988-89 and FY 1989-90.

Analysis Based on Two-Year Prison Term

| Number of Offenses | | | |
|--------------------|------------|-----------------|------------|
| Committed | FY 1987-88 | FY 1988-89 | FY 1989-90 |
| 1987-88 | 38 | 38 | 38 |
| 1988-89 | -- | 75 ^c | 75 |
| 1989-90 | -- | -- | 75 |
| ----- | | | |
| TOTAL Population | 38 | 113 | 188 |

Expenditure Analysis

| | | | |
|--------------|------------------------|---------------------|---------------------|
| TOTAL | \$393,300 ^d | \$2,452,100 | \$3,853,200 |
| Per Prisoner | 20,700 ^a | 21,700 ^b | 22,800 ^b |

Assumptions:

^aAnnual cost per prisoner based on Department of Corrections average FY 1987-88 figure of \$20,700.

^bAnnual cost per prisoner adjusted for 5% inflation rate.

^cNumber of offenses held constant for three-year period at 75 per year.

^d38 prisoners × (\$20,700/2) = 393,300.

Alternatively, the following table summarizes the fiscal impact based on a one-year jail term for all individuals sentenced under the provisions of the bill.

Analysis Based on One-Year Jail Term

| Number of Offenses | | | |
|--------------------|------------|-----------------|------------|
| Committed | FY 1987-88 | FY 1988-89 | FY 1989-90 |
| 1987-88 | 38 | 38 | -- |
| 1988-89 | -- | 75 ^c | -- |
| 1989-90 | -- | -- | 75 |
| ----- | | | |
| TOTAL Population | 38 | 113 | 75 |

| | | | |
|----------------------|------------------------|---------------------|---------------------|
| Expenditure Analysis | | | |
| TOTAL | \$242,700 ^d | \$1,259,600 | \$1,057,500 |
| Per Prisoner | 12,775 ^a | 13,400 ^b | 14,100 ^b |

Assumptions:

^aAnnual cost based on \$35 per diem.

^bAnnual cost per prisoner adjusted for 5% inflation rate.

^cNumber of offenses held constant for three-year period at 75 per year.

^d38 prisoners × (\$12,775/2) = \$242,725

In summary, the fiscal impact of the bill on State and local expenditures could vary significantly, based on the three primary factors presented in this analysis.

ARGUMENTS

Supporting Argument

By making a jail escape a felony rather than a misdemeanor, the bill would make the penalty for escaping from jail proportionate to the seriousness of the offense. With the more severe penalties proposed by the bill, the law could have a deterrent effect greater than that which now exists, particularly for felons, to whom a one-year misdemeanor may seem insignificant. The numbers of felons in county jails has risen in recent years, as prison overcrowding has led to more State prisoners—and more serious offenders—being housed in county jails. Since it already is a felony to escape from prison, the bill would make the law more consistent with respect to escape from incarceration.

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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.