

SFA

BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

(517) 373-5383

RECEIVED

FEB 08 1989

Mich. State Law Library

House Bill 5217 (Substitute S-1 as reported by the Committee of the Whole)

Sponsor: Representative Justine Barns

House Committee: Corrections

Senate Committee: Criminal Justice, Urban Affairs, and Economic Development

Date Completed: 12-5-88

RATIONALE

Public Act 325 of 1982 specifies measures that must be taken to reduce a jail's population to 90% of rated design capacity (or a percentage of rated design capacity less than 90% as set by a court prior to February 8, 1983) when a jail 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% of capacity, however, can result in leaving large numbers of beds vacant in some of the larger facilities. In the Kent County jail, for example, the 90% requirement would result in a vacancy of 57 beds; in the Oakland County jail, it would leave 90 beds vacant; and in Wayne County, it would leave 187 beds vacant. Some people feel that the Act's population reduction requirements should be changed to allow county sheriffs a more flexible reduction target.

The Act also has caused confusion regarding when jail population counts should be taken. If the jail population count is taken during the day, for example, prisoners who work outside the jail are not counted. Some believe that the Act should specify a time of day for population counts to be conducted.

CONTENT

The bill would amend Public Act 325 of 1982 to specify an additional population reduction target that could be met to avoid the Act's advanced reduction measures. Under the bill, the Act's advanced population reduction measures would have to be pursued unless initial reduction measures reduced a county jail's population to the higher of either 90% of rated design capacity or to the point at which jails with a rated design capacity under 500 beds had at least 10 empty beds, and jails with a rated design capacity of 500 beds or more had at least 25 empty beds. The bill also would require prisoner population counts to be conducted between the hours of 12:01 a.m. and 4:00 a.m.

In addition, the bill would require the Department of Corrections' Office of Facility Services, in cooperation with the Michigan Sheriffs' Association, to report to the chairpersons of the legislative standing committees responsible for corrections issues. The report would have to be submitted within 18 months after the bill's effective date and would have to evaluate the bill's effect on the overcrowding state of emergency procedures during the 12 months immediately following the bill's effective date.

MCL 801.56 et al.

SENATE COMMITTEE ACTION

The Senate Committee on Criminal Justice, Urban Affairs, and Economic Development adopted a substitute (S-1) to the bill that would allow a county jail to avoid the Act's advanced reduction measures by reducing the jail's population to the lower of either 90% of rated design capacity, or a population such that jails with a capacity of less than 500 beds had at least 10 empty beds and jails with a capacity of 500 beds or more had at least 25 empty beds. (This proposed provision would result in a requirement that reduction measures cut a jail's population to 90% of capacity, regardless of the jail's size.) The Senate Committee of the Whole amended the substitute to provide that the initial reduction target be the higher of those two standards. (The Committee of the Whole amendment would allow a jail with a capacity of less than 100 to reduce its population to 90% of capacity; while larger jails could meet the standard for a minimum number of empty beds.) The House-passed version would have allowed a county jail to avoid the advanced reduction measures if initial reduction measures cut the jail's population to either 95% of its capacity or the minimum number of empty beds standard.

In addition, the Senate substitute would require the Office of Facility Services and the Michigan Sheriffs' Association to report to the Legislature on the effect of the changes that would be made by the bill. The House-passed version contained no such reporting requirement.

FISCAL IMPACT

The bill would have no fiscal impact on State government. For local governments, the bill would reduce expenditures as a result of permitting the use of a greater number of existing beds within county jails.

ARGUMENTS**Supporting Argument**

Jail and prison overcrowding is a serious problem in Michigan. At a time when the State and its counties lack adequate numbers of beds to house prisoners, it does not make sense to leave 10% of a jail's beds empty. The bill is necessary to allow county jails to be used to their full potential.

Opposing Argument

The bill could create more problems than it would solve, since it could 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 another overcrowding state of emergency almost immediately.

H.B. 5217 (12-5-88)

OVER

Legislative Analyst: P. Affholter
Fiscal Analyst: B. Burghardt

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.