



**House
Legislative
Analysis
Section**

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COUNTY JAIL CELLS; MULTIPLE OCCUPANCY

Senate Bill 498 (Substitute S-2) with House
committee amendments
Senate Bill 532 as passed by the Senate
First Analysis (12-10-87)

Sponsor: Senator Jack Welborn
Senate Committee: Criminal Justice Urban Affairs and
Economic Development
House Committee: Corrections

THE APPARENT PROBLEM:

Public Act 232 of 1932 specifies that rules and standards promulgated by the Department of Corrections for the administration of county jails cannot prohibit the housing of two inmates "in any cell in a county jail" that meets certain specified design and construction requirements. Reportedly, an opinion of the attorney general has stated that this provision prohibits the housing of more than two inmates in any county jail cell, regardless of the size, design, or construction of the cell. Some county jails have very large cells, designed and constructed for the purpose of holding several inmates. Under the attorney general's opinion, however, these cells cannot be used in the manner in which they were intended. In addition, if all county jails were to comply with the attorney general's ruling, some claim, the already severe overcrowding problems would be much worse. Some people feel that Public Act 232 should be amended to provide specifically that multiple occupancy of county jail cells would be permitted.

THE CONTENT OF THE BILLS:

Senate Bills 498 and 532 would amend Public Act 232 of 1953, which provides for the administration of county jails, to permit double and multiple occupancy of county jail cells.

The bills are tie-barred and would take effect on January 1, 1988.

Senate Bill 498 would amend current law to specify that Department of Corrections rules and standards could not prohibit double bunking in "a county jail cell which is designed and constructed for single occupancy" and which met the act's other requirements.

The bill also would require jail classification systems to be approved by the department (currently, systems must be approved by the chief judge of the circuit court of the county), with the exception that those systems which were in effect as of December 31, 1987, would remain in effect. In addition, the bill would remove the sunset date on the act's double bunking provisions.

MCL 791.262b

The act requires the Department of Corrections to promulgate rules and standards "promoting the proper, efficient, and humane administration of jails" that are under the jurisdiction of county sheriffs. Senate Bill 532 would permit the department to grant a variance to those rules and standards. It would also specify that the rules and standards could not prohibit the housing of two or more inmates in a county jail cell that was designed and constructed for double or multiple bunking and that met all of the following: a) The cell had an area of at least 52 square feet per inmate (this provision would apply only to

cells constructed after January 1, 1988); b) the cell included access to a day area that was available for use by inmates other than those being disciplined, and that contained an area of an additional 20 square feet per inmate (this provision would apply only to cells constructed after January 1, 1988); c) the cell complied with other rules and standards for multiple occupancy promulgated under the act.

Under the bill, county sheriffs would be required to develop, implement, and submit to the department a classification system for the purpose of housing two or more inmates in a multiple occupancy cell. The system would classify inmates according to behavior characteristics, physical characteristics, age, type of crime committed and criminal history, and gender. The bill would prohibit the construction of high security and segregation cells to house multiple inmates. It would also specify that cells used to house two or more prisoners have doors that allowed visual supervision, and that the inmates be under visual supervision at least every hour.

MCL 791.262

FISCAL IMPLICATIONS:

The House Fiscal Agency reports that the bills would have no fiscal implications for the state. (12-9-87)

ARGUMENTS:

For:

The act requires the Department of Corrections to promulgate rules promoting the efficient administration of county jails; but adherence to the attorney general's opinion would result in the inefficient use of jail space. Also, by limiting the occupancy of all county jail cells to two inmates, regardless of the size and design of the cells, the attorney general's opinion would compound the problem of overcrowding in Michigan's county jails. The bills would correct these problems by specifically permitting multiple occupancy in county jail cells that met certain specified size, design, and construction requirements.

For:

The bills would permit the department to authorize variances to the rules and standards promulgated to administer county jail cells. This authority already has been granted by rule, and the bills merely would codify current practice.

POSITIONS:

The Michigan Sheriffs' Association supports the bills. (12-8-87)

The Department of Corrections supports the bills. (12-8-87)

The Wayne County Sheriff's Department supports the bills. (12-9-87)

S.B. 498 & 532 (12-7-87)