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BILL ANALYSIS

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**Senate Bill 498 (Substitute S-2 as reported)****Senate Bill 532 (as reported with amendment)****Sponsor: Senator Jack Welborn****Committee: Criminal Justice, Urban Affairs, and Economic Development****Date Completed: 11-12-87*****RATIONALE***

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.

***CONTENT***

Senate Bills 498 (S-2) 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 (S-2)**

The bill specifies 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 that met the Act's other requirements.

The bill also would require a jail's classification system to be approved by the Department. (Currently, the system must be approved by the chief judge of the circuit court of the county.) In addition, the bill would remove from the Act a sunset on the Act's double bunking provisions.

MCL 791.262b

**Senate Bill 532**

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. The bill would permit the Department to grant a variance to those rules and standards. It also specifies 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:

- 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.)
- 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.)
- The cell complied with other rules and standards for multiple occupancy promulgated under the Act.

The bill would require county sheriffs to develop and implement a classification system for the purpose of housing two or more inmates in a multiple occupancy cell. The jail population would have to be classified according to behavior characteristics, similar physical characteristics, age, type of crime committed and criminal history, and gender. The classification system would have to be approved by the Department.

The bill would prohibit the construction of high security and segregation cells to house multiple inmates. It also specifies that cells used to house two or more prisoners would be required to have doors that allowed visual supervision, and that the inmates would have to be under visual supervision at least every hour.

MCL 791.262

***FISCAL IMPACT***

The bills would have no fiscal impact on State expenditures and an indeterminate impact on local government expenditures in FY 1987-88.

Local governmental units could experience a reduction in capital outlay expenditures as a result of Senate Bill 532's provision that would authorize the Department of Corrections to grant variances to its jail rules. Authorization to house two inmates in a county jail cell would reduce likely jail operating expenditures because the county jail facility could operate in a more efficient manner and would not be in violation of Department rules.

***ARGUMENTS******Supporting Argument***

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

S.B. 498 &amp; 532 (11-12-87)

bills would correct these problems by specifically permitting multiple occupancy in county jail cells that met certain specified size, design, and construction requirements.

### ***Supporting Argument***

The bill would authorize 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 bill merely would codify current practice.

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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.