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Senate Bill 526 (as reported without amendment)**Sponsor: Senator Jack Welborn****Committee: Criminal Justice, Urban Affairs, and Economic Development****Date Completed: 11-10-87****RATIONALE**

Public Act 302 of 1968 defines and prescribes penalties for rioting. The current provisions of that statute are used to prosecute cases of inmate rioting within State correctional facilities. The statutory definition has been interpreted in some instances not to apply to offenses within correctional facilities, however, because the "public" is not present within those facilities. (The Act defines the crime of riot as five or more persons acting to cause "public terror or alarm".) Some, including the Senate Select Committee on Safe Streets, which was appointed during the 1985-86 legislative session, believe that an additional provision defining and prescribing penalties for rioting in a correctional facility should be added to the Act.

CONTENT

Senate Bill 526 would amend Public Act 302 of 1968, which defines and prescribes penalties for rioting, to specify that a person who willfully instigated, caused, attempted to cause, assisted in causing, or conspired to cause a riot at a State correctional facility would be guilty of a felony, punishable by not more than 10 years in prison, a fine of not more than \$10,000, or both. "Riot at a state correctional facility" would mean that at least three persons, acting in concert, intentionally or recklessly engaged in violent conduct that threatened the security of the facility or the safety or authority of those responsible for maintaining the security of the facility.

Under the Act, "the crime of riot" means five or more persons, "acting in concert, to wrongfully engage in violent conduct and thereby intentionally or recklessly cause or create a serious risk of causing public terror or alarm". The crimes of riot and incitement to riot are felonies punishable by up to 10 years' imprisonment, a fine of \$10,000, or both. The crime of "unlawful assembly", under the Act, is a felony punishable by not more than five years' imprisonment, a fine of not more than \$5,000, or both.

FISCAL IMPACT

The bill would have an indeterminate impact on State expenditures in FY 1987-88. The indeterminate impact would be the result of two primary factors: the number of riots that might occur and the number of individuals that might be involved.

ARGUMENTS**Supporting Argument**

The bill would give county prosecutors a mechanism for trying cases of riot against inmates of State correctional facilities. Currently, there is an ambiguous provision in State law for prosecuting such cases that, on occasion, has been interpreted to be inapplicable to infractions

occurring within correctional facilities. By referring specifically to actions occurring in a State correctional facility, the bill would provide prosecutors and courts with a clear and uniform understanding of the provision.

Supporting Argument

The bill would provide an adequate deterrent to a prisoner's participation in prison disruptions. Currently, if a prisoner is not considered to be covered under the Act, the maximum punishment is 30 days' detention for a major misconduct violation. Although disruptions that are spontaneous and involve one or two individuals are punished sufficiently by 30 days' detention, intentional or willful acts by three or more individuals should be dealt with more severely. The bill would provide for more severe punishment of those infractions.

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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.

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