



**House
Legislative
Analysis
Section**

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NO JAIL FURLOUGHS FOR CERTAIN CRIMES

**House Bill 4883 as passed by the House
Third Analysis (3-29-90)**

**Sponsor: Rep. Sal Rocca
Committee: Corrections**

THE APPARENT PROBLEM:

In recent years, inmates in at least one of the state's county jails have periodically received "holiday furloughs," lasting from two to five days each, at Thanksgiving and Christmas. According to information gleaned from county jail and circuit court records and revealed by the Macomb County press, 10 of that county's 23 circuit and district judges granted 55 furloughs to 37 inmates between 1986 and 1988. The furloughs were granted to inmates serving sentences for offenses that included larceny, burglary charges, drunken driving, destruction of property, assault, welfare fraud, driving with a suspended license, negligent homicide, criminal sexual conduct, auto theft, embezzlement, writing a bad check, and drug-related offenses. According to the news articles, the origin of the program is unclear and Macomb is one of the few counties in the state that grants holiday furloughs on a regular basis. The furloughs are apparently granted at the discretion of individual judges: no guidelines or standards exist to determine which inmates will receive them. According to the news articles, there have been no reports of inmates failing to return from a furlough. One prisoner, however, allegedly beat up his wife while home on a Thanksgiving furlough; another received a Christmas furlough only two weeks after a similar incident. The respective charges for which these prisoners had been convicted were those of assault and the sale of drugs. Some feel that persons convicted of these particular crimes should not be returned to society until they have served their sentences, and that legislation should be introduced to eliminate the judges' discretion in granting furloughs.

THE CONTENT OF THE BILL:

The bill would amend the Code of Criminal Procedure to require that a person imprisoned in a county jail as a condition of probation who had been convicted of an assaultive crime, or of certain crimes involving drugs, serve his or her term of imprisonment in one consecutive period, rather than in nonconsecutive intervals. The provisions of the bill would apply to an offense involving the manufacture, delivery, or possession with the intent to manufacture or deliver a controlled substance, unless the violation involved the delivery of five grams or less of marijuana without intent to receive remuneration. The requirements of the bill would not apply to persons convicted of aggravated assault, which is a misdemeanor. In addition, an exception to the requirements of the bill could be made for a prisoner involved in an emergency situation, if the exception were approved in writing by the sentencing court.

MCL 771.3

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have no fiscal impact on state funds. (3-28-90)

ARGUMENTS:

For:

Those who commit crimes of an assaultive nature or who push drugs have inflicted enough pain and suffering on society, and should not be allowed the opportunity to inflict more. While it certainly is a hardship not to be able to spend holidays with one's family, those who have been sent to jail have been sent there as a punishment under which they give up all rights and privileges.

Against:

If prisoners in state correctional facilities are allowed furloughs, it would seem unfair to bar prisoners in county jails — who have been convicted of lesser offenses — from that privilege. While restrictions have been placed on the Department of Corrections' authorization to grant furloughs, prisoners in state correctional facilities are still eligible for them under certain circumstances: family emergencies, for example. In each case, the director of the Department of Corrections may authorize a furlough if there is reasonable assurance that the prisoner will not become a menace to society. In any case, the fact that the vast majority of prisoners who have received furloughs have not misbehaved and have not run away is proof that these programs work.

Against:

The bill is an attempt to erode the judicial process by removing the discretion of a judge to decide when and where furloughs will serve a rehabilitative purpose. Further, the bill will serve no real purpose, since those judges who are now disposed to grant furloughs will, instead, offer work release or weekend incarceration as an alternative. In any case, those judges in Macomb County who granted furloughs have now ceased to do so as a result of the publicity generated by the attention of the media.

POSITIONS:

The Department of Corrections has no position on the bill. (3-27-90)

The Michigan Corrections Organization/SEIU Local 526M has no position on the bill. (3-29-90)

The Michigan Judges Association has no position on the bill. (3-26-90)

The Michigan Council on Crime and Delinquency opposes the bill. (3-28-90)

H.B. 4883 (3-29-90)