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BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

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Senate Bills 201 through 216

Sponsor: Senator Norman D. Shinkle (S.B. 201, 211)
Senator Robert Geake (S.B. 202, 208, 210, 213, 214, 216)
Senator Doug Carl (S.B. 203-207)
Senator Dick Posthumus (S.B. 209)
Senator Nick Smith (S.B. 212)
Senator Jack Welborn (S.B. 215)

Committee: Economic Development

Date Completed: 4-4-89

SUMMARY OF SENATE BILLS 201 through 216 as introduced 3-7-89:

Senate Bills 201 through 215 would amend various acts to allow counties and cities to contract with a private entity for the ownership and operation of jails and to include such jails in the acts' definitions and restrictions.

Senate Bill 216 would create the "Alternative Jails Act" to allow privately operated jails to be established in cities, villages, and townships in Michigan; specify the conditions under which persons could be incarcerated in such facilities; and specify the responsibilities of a jail's operator.

Senate Bills 201 through 215 all are tie-barred to Senate Bill 216.

Senate Bill 201 would amend Chapter 171 of the Revised Statutes of 1846, which provides for the regulation of county jails, to provide that a jail could be "established by a county and placed under the jurisdiction of the county sheriff, or [could] be owned and operated by a private entity under a contract with the county". A privately owned and operated jail would be subject to the Act's requirements to the same extent as are jails under a sheriff's jurisdiction. Further, the bill specifies that the Act's provisions prohibiting public officials and employees from using the labor of prisoners for their own private benefit or financial gain and prohibiting sheriffs from deriving any private benefit or financial gain from providing food to prisoners in a jail under the sheriff's jurisdiction, would not prevent the operation of a jail by a private entity for profit under Senate Bill 216, according to a contract executed between the county and the keeper of the jail. Also, the bill would replace references to a "sheriff" with references to a "keeper" or "keeper of the jail", which would mean a sheriff in the case of a jail under the sheriff's jurisdiction or the person designated by contract to be responsible for the operation of a privately run jail. The bill also would remove a requirement that a prisoner in solitary confinement be fed only with bread and water, unless other food is necessary for the preservation of the prisoner's health.

Senate Bill 202 would amend the Department of Corrections Act to include jails operated by a private entity under contract with a local unit of government

S.B. 201-216 (4-4-89)

within the Act's definitions of "holding cell", "holding center", "jail", and "lockup".

Senate Bill 203 would amend Public Act 215 of 1895, which provides for the incorporation of fourth class cities and permits a city to maintain a city prison, to permit the council of a city to provide and maintain a city prison or jail "either by establishing a city-owned facility or by contracting with a private entity to...provide and operate a jail for the use of the city". The bill also would include a jail operated by a private entity within the Act's definitions of "city prison", "county jail", "jail", or "other place of confinement".

Senate Bill 204 would amend Public Act 3 of 1895, which provides for the incorporation of villages and allows villages to use a county jail, to include a jail operated by a private entity within the definition of "jail" for the purposes of the Act.

Senate Bill 205 would amend Public Act 279 of 1909, which provides for the incorporation of cities and the revision or amendment of their charters, to permit a city charter to provide for a city jail by means of a contract with a private entity to establish and operate such a jail.

Senate Bill 206 would amend Chapter 13 of the Revised Statutes of 1846, which requires counties either to establish a jail or to contract with other counties for the use of those other counties' jails, to allow a county also to "contract with a private entity for the establishment of a jail that is operated by the private entity".

Senate Bill 207 would amend Public Act 293 of 1966, which provides for the establishment of charter counties, to allow a county charter to provide for jails either by public jail facilities or by contracting with privately operated jails.

Senate Bill 208 would amend Chapter 14 of the Revised Statutes of 1846, which gives custody of a county's jail and prisoners to the county sheriff, to allow prisoners to be placed in privately operated jails.

Senate Bill 209 would amend Section 30 Chapter 147 of the Revised Statutes of 1846, which provides for the transfer of property, records, and the custody of prisoners to a newly elected sheriff, to provide that the requirements of the Section would not affect a jail operated by a private entity under contract with a county pursuant to Senate Bill 216.

Senate Bill 210 would amend Public Act 210 of 1945 to expand to a "keeper of a jail" the authorization and responsibilities granted to sheriffs by the Act to do all of the following:

- Adopt rules and regulations for the conduct of prisoners.
- Provide for the keeping of records in connection with prisoners' conduct.
- Credit prisoners with good behavior allowances for obeying the rules and regulations and remove any portion of such allowances for infractions of the rules.

The bill also would extend to a keeper the Act's protection of a sheriff against civil liability to any prisoner, if a prisoner served any excess time up to the

maximum of the original sentence without good behavior allowances.

Senate Bill 211 would amend the Correctional Officers' Training Act to include a facility maintained by a private entity, which houses adult prisoners, within the Act's definition of "correctional facility", and specify that the term "local correctional officer" would include any person employed in a privately operated jail or that person's immediate supervisor.

Senate Bill 212 would amend the Prisoner Reimbursement to the County Act to include within the Act's definition of "county jail" a jail operated by a private entity under a contract with a county pursuant to Senate Bill 216.

Senate Bill 213 would amend Chapter 148 of the Revised Statutes of 1846, which makes general provisions relating to jails and the confinement of prisoners, to extend to a "keeper of a jail" (i.e., the person designated by contract as being responsible for the operations of a private jail facility) the duties and responsibilities accorded to a sheriff by the Act. Such duties and responsibilities pertain to the housing of prisoners sentenced by Federal courts, liability for violations of the Act's provisions relating to separation of prisoners, and the confinement of prisoners designated to serve in a jail of another county.

Senate Bill 214 would amend Public Act 60 of 1962, which provides for the day parole of gainfully employed prisoners, to include within the Act's definition of "jail" a detention facility operated by a private entity under contract with a county, and to change the Act's references to a "sheriff" to references to a "keeper" or "keeper of a jail", which would mean either a sheriff or the person designated by contract as being responsible for the operation of a private jail facility.

Senate Bill 215 would amend Public Act 7 of 1981, which prohibits contraband (including alcohol, controlled substances, and weapons) from being brought into jails, to include within the Act's definition of "jail" a facility maintained by a municipality or county under contract with a private entity to house prisoners.

Senate Bill 216 would create the "Alternative Jails Act" to allow privately operated jails to be established in any city, village or township in Michigan. The bill specifies that any person who could be lawfully incarcerated in a city or county jail for civil contempt or for conviction of a misdemeanor violation or an ordinance violation with a maximum penalty of up to one year in jail, instead could be committed by the sentencing court to a privately operated jail for the term of his or her sentence. Commitment of a person to a privately operated jail would have to be made according to a contract between the jail and the city, village, township or county from which the prisoner was committed. The bill would prohibit a county from committing persons to a privately operated jail unless the county continued to maintain in its jail at least as many bed spaces for prisoners as were available on the effective date of the bill. A privately operated jail would not be allowed to house any inmate committed from a jurisdiction outside Michigan.

A privately operated jail would be required to comply with rules and minimum standards established by the Department of Corrections.

A contract between a privately operated jail and a city, village, township or

county would have to require that the operator provide a performance bond, assume all liability for damages or injury caused by or arising out of any aspect of the operation of the jail, and provide sufficient liability insurance for the operator, its officers, jailers, employees, and agents to cover all liability for damages or injury caused by or arising out of the jail's operation.

MCL	801.1 et al. (Senate Bill 201)	Legislative Analyst: L. Burghardt
	791.262 (Senate Bill 202)	
	90.8 and 93.1 (Senate Bill 203)	
	66.8 (Senate Bill 204)	
	117.4e (Senate Bill 205)	
	45.16a (Senate Bill 206)	
	45.515 (Senate Bill 207)	
	51.75 (Senate Bill 208)	
	51.130 (Senate Bill 209)	
	51.281-51.283 (Senate Bill 210)	
	791.502 (Senate Bill 211)	
	801.82 (Senate Bill 212)	
	801.101 et al. (Senate Bill 213)	
	801.251 et al. (Senate Bill 214)	
	801.261 (Senate Bill 215)	

FISCAL IMPACT

The bills would have no impact on State GF/GP expenditures and an indeterminate impact on local government during FY 1987-88. Contracting with a private entity to operate a jail could result in reduced operating expenditures for the local unit of government as a result of lower costs and potential operating efficiencies. Further analysis will be required on a case-by-case basis in order to assess the potential fiscal impact of the bills for local governments.

Fiscal Analyst: B. Burghardt

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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.