

# HOUSE BILL No. 5540

February 22, 1990, Introduced by Reps. Pitoniak, DeMars, Bartnik, Ciaramitaro, Profit, Gire and Stupak and referred to the Committee on Towns and Counties.

A bill to create a jail construction assistance program; to create a sentencing guidelines reimbursement program; and to provide for the powers and duties of certain state and local departments, agencies, and officers.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the  
2 "state and local partnership on corrections act".

3       Sec. 2. As used in this act:

4       (a) "Class I prisoner" means a prisoner whose controlling  
5 minimum sentence is based on a sentencing guidelines score in  
6 which the upper limit is 12 months or less.

7       (b) "Class II prisoner" means a prisoner whose controlling  
8 minimum sentence is based on a sentencing guidelines score in  
9 which the upper limit exceeds 12 months but does not exceed 48  
10 months.

1 (c) "Class III prisoner" means a prisoner whose controlling  
2 minimum sentence is based on a sentencing guidelines score in  
3 which the upper limit exceeds 48 months.

4 (d) "Department" means the department of corrections.

5 (e) "Eligible project" means a construction project  
6 described in section 4.

7 (f) "Jail" means a facility operated by a county for the  
8 detention of persons charged with or convicted of a criminal  
9 offense.

10 (g) "Jail construction assistance program" means the program  
11 created in section 3.

12 (h) "Local community corrections center" means a residential  
13 facility either contracted for or operated by a county in which a  
14 security staff is on duty 7 days per week, 24 hours per day, and  
15 which houses minimum security prisoners who are primarily  
16 expected to engage in private employment, education or vocational  
17 training, or substance abuse treatment, or a combination of those  
18 activities.

19 (i) "Minimum security facility" means a security camp, a  
20 local community corrections center, or a minimum security portion  
21 of a jail.

22 (j) "Prisoner" means any individual who is convicted of a  
23 criminal offense punishable by imprisonment for more than 1 year  
24 and is confined to a jail, state correctional facility, or state  
25 or local community residential program.

26 (k) "Security camp" means a facility operated by a county  
27 for the housing of minimum security prisoners who are not

1 considered dangerous or likely to escape and who are primarily  
2 expected to engage in employment on public works projects.

3 (4) "Sentencing guidelines" means the guidelines used for  
4 sentencing purposes that are in effect on the date of  
5 sentencing.

6 (m) "Sentencing guidelines reimbursement program" means the  
7 program created in section 9.

8 Sec. 3. (1) Beginning October 1, 1990, a jail construction  
9 assistance program is created and shall be administered by the  
10 department.

11 (2) A county that qualifies for the jail construction  
12 assistance program is eligible to receive reimbursements from the  
13 state for the capital outlay costs of eligible facilities, as  
14 provided in sections 4 to 8.

15 Sec. 4. (1) Construction projects for which counties are  
16 eligible for reimbursement under the jail construction assistance  
17 program are limited to construction of the following types of  
18 facilities:

19 (a) A minimum security jail facility, the minimum security  
20 portion of a jail facility, or a security camp which is opened  
21 for occupancy on or after January 1, 1988 but before January 1,  
22 1995, and is part of a project that results in a net increase in  
23 total jail capacity.

24 (b) A local community corrections center, which is opened  
25 for occupancy on or after January 1, 1988 but before January 1,  
26 1995, and results in a net increase in the total number of jail  
27 and local community corrections center beds owned by the county.

1 (2) A construction project for which construction contracts  
2 have not been signed before the effective date of this act and  
3 which does not receive prior approval under section 7(b) and  
4 section 8 is not eligible to receive funding under the jail con-  
5 struction assistance program.

6 Sec. 5. (1) Capital outlay costs that may be reimbursed  
7 under the jail construction assistance program include the costs  
8 of purchasing land, preparing the site, construction, initial  
9 equipment excluding vehicles, and interest expense. If off-site  
10 utility costs are included, only the portion of those costs  
11 attributable to use by the proposed facility are eligible for  
12 reimbursement. Jail projects, security camps, and local commu-  
13 nity corrections center projects each shall be reviewed sepa-  
14 rately, and the 3 types of projects shall not be comingled when  
15 computing costs.

16 (2) If a proposed facility will serve prisoners who are not  
17 minimum security prisoners in addition to those who are minimum  
18 security prisoners, the costs for all housing and program space  
19 not designed for use by minimum security prisoners shall be sepa-  
20 rately identified and may not be reimbursed.

21 (3) Costs for support services such as kitchens, laundries,  
22 and administrative offices may be reimbursed but shall be pro-  
23 rated based on total capacity served if those support services  
24 are used by prisoners and programs other than those in facilities  
25 or parts of facilities reimbursable under section 4.

26 (4) A county that is eligible for state reimbursement for  
27 more than 1 eligible project may elect to be reimbursed on the

1 basis of an average of the reimbursable costs weighted in  
2 proportion to the number of beds designed for minimum security  
3 prisoners in the various projects. Jail projects and security  
4 camp projects shall not be averaged together with local community  
5 corrections center construction projects for purposes of this  
6 subsection.

7       (5) Total reimbursable costs for an eligible project shall  
8 be divided by the total number of eligible beds to determine the  
9 cost per bed for the project. Subject to the limitations of  
10 section 6, the cost per bed for a project shall be divided by the  
11 product of 365 days multiplied by 20 years (7,300) to determine  
12 the construction per diem reimbursement rate under the jail con-  
13 struction assistance program for that eligible project.

14       Sec. 6. (1) To receive funds under the jail construction  
15 assistance program, a county shall enter into a contract with the  
16 department. The contract shall provide for reporting and payment  
17 procedures, shall establish the per diem reimbursement rate, and  
18 shall contain other provisions necessary to the successful imple-  
19 mentation of the contract, as determined by the department.

20       (2) A county that enters into a contract with the department  
21 under this section is eligible for construction per diem payments  
22 for prisoners in a jail, security camp, or local community cor-  
23 rections center. Time served by a prisoner in a jail or a secur-  
24 ity camp facility and time served in a local community correc-  
25 tions center shall be billed separately at the corresponding  
26 rates.

1 (3) Reimbursements for any 1 eligible project shall not  
2 continue for more than 20 years, and are subject to the following  
3 limits for specific types of eligible projects:

4 (a) For a minimum security jail facility, or a minimum  
5 security portion of a jail facility:

6 (i) Forty percent of the reimbursable costs for eligible  
7 beds occupied by class I prisoners.

8 (ii) Sixty-five percent of the reimbursable costs of eligi-  
9 ble beds occupied by class II and Class III prisoners.

10 (b) For a security camp or local community corrections  
11 center:

12 (i) Fifty percent of the reimbursable costs of eligible beds  
13 occupied by class I prisoners.

14 (ii) Seventy-five percent of the reimbursable costs of eli-  
15 gible beds occupied by class II and class III prisoners.

16 (4) If any class I prisoners are committed to the jurisdic-  
17 tion of the department from a county that is a party to a con-  
18 tract under section 6, the reimbursements to that county shall be  
19 offset by the cost of housing those prisoners, which shall be  
20 billed in accordance with the rates for reimbursements payable to  
21 that county under this act. However, the offsetting costs  
22 allowed under this subsection shall not reduce the reimbursement  
23 limitations established in subsection (3)(a) to less than 25%,  
24 and shall not reduce the reimbursement limitations established in  
25 subsection (3)(b) to less than 35%.

26 (5) The offsets allowed under subsection (4) shall be  
27 applied after the offsets under the sentencing guidelines

1 reimbursement program are applied under section 10(1), but before  
2 any pledged reimbursements are transmitted under section 11.

3       (6) The number of beds reimbursable under a contract on any  
4 1 day shall not exceed the number of minimum security beds con-  
5 tained in the eligible project, and shall not exceed the net  
6 increase in the total number of jail beds and security camp beds,  
7 or local community corrections center beds, as appropriate, that  
8 are in use in that county as a result of that contract. Any  
9 reduction in the total number of jail beds and security camp  
10 beds, or local community corrections center beds, in use in that  
11 county shall result in a corresponding reduction in the number of  
12 beds reimbursable under the contract. A county that enters into  
13 a contract under this section shall notify the department before  
14 making a reduction in the total number of those beds in use in  
15 that county.

16       (7) The eligibility for reimbursements under the jail con-  
17 struction assistance program shall commence on the effective date  
18 of the contract applicable to the eligible project.

19       (8) The department shall not enter into more contracts than  
20 can reasonably be expected to be funded from the appropriations  
21 for that purpose.

22       Sec. 7. All of the following conditions shall be met before  
23 the department approves a contract under the jail construction  
24 assistance program:

25       (a) The county shall submit a jail classification system for  
26 review and approval by the department and shall agree to  
27 implement the approved plan. The department shall review the

1 plan to ensure that it is designed to result in efficient  
2 utilization of available jail space.

3 (b) The county shall submit schematic plans of the proposed  
4 construction for review and approval by the department. The  
5 department shall determine the proposed facility or portion of a  
6 facility that qualifies as minimum security for purposes of the  
7 jail construction assistance program. The department shall  
8 ensure that the design provides for efficient operation and  
9 staffing. This subdivision does not apply to a project for which  
10 construction is complete or for which construction contracts were  
11 signed before the effective date of this act.

12 (c) If the county has appointed a county advisory board and  
13 has submitted to the department a comprehensive corrections plan  
14 under the community corrections act, Act No. 511 of the Public  
15 Acts of 1988, being sections 791.401 to 791.414 of the Michigan  
16 Compiled Laws, the county shall submit documentation establishing  
17 that the proposed construction is consistent with that comprehen-  
18 sive corrections plan.

19 Sec. 8. A construction contract for an eligible project  
20 shall be awarded by a competitive bid process that is approved by  
21 the department of management and budget and includes advertising  
22 for bidders. This section does not apply to projects for which  
23 construction is complete or for which construction contracts were  
24 signed before the effective date of this act.

25 Sec. 9. (1) Beginning April 1, 1990, a sentencing guideline  
26 reimbursement program is created, subject to this section and  
27 sections 10 to 12.



1       (2) The base rate for the sentencing guidelines  
2 reimbursement program shall be established annually by the appro-  
3 priations process of this state, but shall not be less than  
4 \$35.00 per diem.

5       (3) Except as provided in subsection (4), a county shall be  
6 reimbursed at the base rate for all class II and III prisoners  
7 who are housed in a county jail, security camp, or a local commu-  
8 nity corrections center.

9       (4) The department may enter into a contract with a county  
10 by which the county agrees to provide 100 or more minimum secur-  
11 ity jail beds or security camp beds for class II and class III  
12 prisoners. A contract shall be for a term of not less than 5 and  
13 not more than 10 years, and is renewable. The contract shall  
14 provide that the minimum security beds shall be utilized in the  
15 following order of priority:

16       (a) All of the beds shall be available first for the place-  
17 ment of class II or class III prisoners from the contracting  
18 county who are committed to a county jail or security camp.

19       (b) If beds are available after prisoners are placed under  
20 subdivision (a), those beds shall be made available for the  
21 placement of similar class II or class III prisoners from coun-  
22 ties that are contiguous to the contracting county or are within  
23 the contracting county's region, as region is defined in  
24 section 20 of Act No. 232 of the Public Acts of 1953, being sec-  
25 tion 791.220 of the Michigan Compiled Laws.

26       (c) If more than 10% of the beds in that facility are  
27 available after prisoners are placed under subdivisions (a) and

1 (b), the number of beds which, if utilized, would result in that  
2 facility being filled to 90% capacity shall be made available to  
3 the department for the placement of prisoners who are assigned  
4 security levels of I or II by the department according to the  
5 department's security classification system and who are serving a  
6 term of imprisonment in a state correctional facility.

7 (5) Except as provided in subsection (6), the reimbursements  
8 to a contracting county under subsection (4) are as follows:

9 (a) For prisoners placed under subsection (4)(a) or (b), the  
10 per diem base rate established under subsection (2) plus \$3.00,  
11 except that the per diem base rate shall not be reduced during  
12 the term of the contract.

13 (b) For prisoners placed by the department under  
14 subsection (4)(c), the per diem base rate established under  
15 subsection (2).

16 (6) Notwithstanding subsection (5), if the number of minimum  
17 security jail beds in use by class II and class III prisoners is  
18 less than 50 for an entire quarter, the reimbursement rate for  
19 that quarter shall be at the base rate established pursuant to  
20 subsection (2).

21 Sec. 10. (1) Payments due to a county under the sentencing  
22 guidelines reimbursement program shall be offset by the cost to  
23 the department of housing class I prisoners from that county who  
24 are committed to the jurisdiction of the department. The offset-  
25 ting costs shall be billed at the rates for reimbursements pay-  
26 able to that county under this act and shall not exceed the  
27 amount payable to that county during that payment period. For a

1 county that participates in the sentencing guidelines  
2 reimbursement program but does not receive reimbursements under  
3 the jail construction reimbursement program, the payments due a  
4 county under the sentencing guidelines reimbursement program  
5 shall be subject to an additional capital outlay offset billed at  
6 a rate of \$5.00 per diem. The duration for assessing offsetting  
7 costs for any prisoner shall be determined at intake and shall be  
8 based on the earliest possible release date from a state-operated  
9 residential facility, exclusive of special good time.

10 (2) The provision for offsets in subsection (1) shall be  
11 prospective and shall be applied only to prisoners committed to  
12 the jurisdiction of the department after April 1, 1990.

13 (3) The offsets allowed under subsection (1) shall be  
14 applied before offsets under the jail construction assistance  
15 program are applied under section 6(4), and before any pledged  
16 reimbursements are transmitted under section 11.

17 Sec. 11. (1) A county may enter into an agreement with the  
18 Michigan municipal bond authority created under section 4 of the  
19 shared credit rating act, Act No. 227 of the Public Acts of 1985,  
20 being sections 141.1051 to 141.1077 of the Michigan Compiled  
21 Laws, to pledge the reimbursement payments owed to that county  
22 under this act to the Michigan municipal bond authority for pay-  
23 ment of an obligation that the county incurs with the authority  
24 for the purpose of acquisition, construction, expansion, or  
25 equipping of a jail, security camp, or local community correc-  
26 tions center.

1       (2) If a county enters into an agreement under  
2 subsection (1), the state treasurer, at the department's  
3 direction, shall transmit to the Michigan municipal bond authori-  
4 ty, or a trustee designated by the authority, the amount of the  
5 reimbursement payment that is pledged in accordance with the  
6 agreement. The pledge shall be enforced first against reimburse-  
7 ments payable under the jail construction assistance program, and  
8 then against reimbursements payable under the sentencing guide-  
9 lines reimbursement program. If the county has entered into an  
10 agreement to pledge certain distributions under section 5a of the  
11 health and safety fund act, Act No. 264 of the Public Acts of  
12 1987, being section 141.475a of the Michigan Compiled Laws, those  
13 distributions shall be paid over to the Michigan municipal bond  
14 authority in accordance with that agreement before the amount  
15 pledged in the agreement under subsection (1) is transmitted.

16       Sec. 12. Beginning with calendar year 1991, the department  
17 annually shall assess the need for constructing or expanding min-  
18 imum security jail facilities in this state, and the need for  
19 funding that expansion or construction under this act. The  
20 report shall cover a calendar year, and shall be submitted not  
21 later than March 1 of each year to the chairpersons of the senate  
22 and house appropriations subcommittees on corrections and to the  
23 director of the department of management and budget.

24       Sec. 13. (1) The department shall establish procedures and  
25 schedules for quarterly statements, payments, and billings under  
26 this act. The procedures shall require that all amounts due and  
27 payable between the department and a county under this act be

1 treated as offsetting payments to result in a net outstanding  
2 balance for payment.

3 (2) Programs and projects that receive state funding under  
4 the community corrections act, Act No. 511 of the Public Acts of  
5 1988, being sections 791.401 to 791.414 of the Michigan Compiled  
6 Laws, shall not receive duplicate funding under this act.

7 Sec. 14. This act does not apply to prisoners awaiting  
8 prosecution on new felony charges.

9 Sec. 15. The provisions of this act authorizing expendi-  
10 tures of state funds are subject to annual appropriations for  
11 that purpose.

12 Sec. 16. This act shall take effect on April 1, 1990.

13 Sec. 17. This act shall not take effect unless all of the  
14 following bills of the 85th Legislature are enacted into law:

15 (a) Senate Bill No. \_\_\_\_ or House Bill No. 5541 (request  
16 no. 02251'89 \*\*).

17 (b) Senate Bill No. \_\_\_\_ or House Bill No. 5542 (request  
18 no. 02251'89 a \*\*).

19 (c) Senate Bill No. \_\_\_\_ or House Bill No. 5543 (request  
20 no. 04400'89 \*\*).