

JAIL REIMBURSEMENT PROGRAM

House Bills 4303-4306

Sponsor: Rep. Gregory E. Pitoniak

Committee: Corrections

Complete to 4-10-91

A SUMMARY OF HOUSE BILLS 4303-4306 AS INTRODUCED 2-15-91

House Bills 4303 through 4306 constitute a package of bills providing for the funding and development of county minimum security facilities. Two types of financial assistance programs would be established: one for construction that added minimum security space ("beds") in the form of jails, community corrections centers, and camps, and the other for the costs of housing prisoners in local facilities. The construction program would provide reimbursement under state contracts, with reimbursement limited to certain percentages of the cost per bed; those percentages would vary according to type of facility and class of offenders to be housed, with the higher limits applying to beds for more serious offenders, and to construction of camps and corrections centers. Under the housing program, to be called the Sentencing Guidelines Reimbursement Program, the state would provide payments for the housing of relatively serious offenders in local facilities. A county that agreed to provide at least 50 minimum security jail or camp beds for certain more serious offenders could contract with the state and receive a housing reimbursement rate higher than the rate that would otherwise apply. With both programs, expenditures would be subject to annual appropriations for that purpose. However, if the state failed to appropriate sufficient funds for either the sentencing guidelines reimbursement program or the jail construction assistance program, a county could void a construction program contract and return all state prisoners to the state at state expense. The package contains two other main elements: it would allow counties to pledge certain revenues against bonds to finance acquisition, construction, or equipping of a jail, and it would allow a judge in a participating county to sentence an offender to a county jail for up to two years (the current limit is one year). A more detailed explanation follows.

House Bill 4306 would create the State and Local Partnership on Corrections Act, under which the jail construction assistance program and the sentencing guidelines reimbursement program would be established. Programs and projects receiving state funding under the Community Corrections Act could not receive duplicate funding under the bill. Expenditures of state funds under the bill would be subject to annual appropriations for that purpose. However, if the state failed to appropriate sufficient funds to pay the expense of either program, a county could void a construction contract and all affected state prisoners would be returned to the Department of Corrections at state expense.

Payments to counties would be dependent in part on the seriousness of the offenders to be housed. A "Class I prisoner" would be one whose minimum sentence, computed under the sentencing guidelines in effect at the time, had an upper limit of 12 months. (Sentencing guidelines, as used in Michigan, score offense and offender characteristics to determine a range for an offender's minimum sentence.) A "Class II prisoner" would be one whose guidelines minimum sentence had an upper limit of between 12 and 48 months.

Beginning October 1, 1991, the Department of Corrections (DOC) would administer a jail construction assistance program under which counties could contract with the department to receive reimbursements for the capital outlay costs of building certain minimum security facilities. The department would be prohibited from entering into more contracts that could reasonably be expected to be funded from the appropriations for that purpose. To be eligible, a facility would have to provide a net increase in beds, would have to be opened between January 1, 1987 and January 1, 1996, and would have to be one of the following: a minimum security jail, a minimum security portion of a jail, a minimum security camp, or a local community corrections center. Reimbursable costs would include the costs of purchasing land, preparing the site, construction (including conversion of an existing facility), initial equipment, and interest expense.

Reimbursements for any one eligible project could not continue for more than 20 years, and would be limited according to the type of facility and class of prisoner. For jail space, the maximum reimbursement would be 40 percent of the reimbursable costs for eligible beds occupied by Class I prisoners, and 65 percent of the reimbursable costs of eligible beds occupied by Class II prisoners. For a camp or community corrections center, the limits would be 50 percent for beds occupied by Class I prisoners, and 75 percent for beds occupied by Class II prisoners. Reimbursement rates would be established by contract and calculated on a per diem basis.

To obtain a contract under the jail construction assistance program, a county would have to: submit a jail classification system for review and approval by the DOC; implement a DOC-approved classification system; submit schematic plans of the proposed construction for department approval; and, if the county had developed a comprehensive corrections plan under the Community Corrections Act, the county would have to submit documentation establishing the need for the proposed construction and plans for its use.

A sentencing guidelines reimbursement program providing operating funds would be created beginning on April 1, 1991. A base rate of reimbursement under the program would be established annually by appropriations, but generally would not be less than the actual cost per diem as determined by the Department of Corrections, plus 15 percent. The base rate could not exceed the average state per diem cost of maintaining a prisoner under the jurisdiction of the department. Generally, a county would be reimbursed at the base rate for all Class II prisoners housed in a county jail, security camp, or local community corrections center. However, a reimbursement rate of the base rate plus 5 percent generally would apply under state-county contracts where the county agreed to provide at least 50 minimum security jail and camp beds for Class II prisoners. Contracts would be for five to ten years and would provide that the beds be available first for the placement of Class II prisoners from the contracting county who were committed to jail or a camp. A county could contract with other counties and with the state to house their prisoners. A county could not charge another county for Class II prisoners accepted under contract with that county. The reimbursement rate for DOC prisoners would be the base rate.

Payments to counties under each program would be reduced by offsets based on the number of Class I prisoners from the county that were committed to the jurisdiction of the Department of Corrections after April 1, 1991. If the county participated in the sentencing

guidelines reimbursement program but not the construction reimbursement program, it would be subject to an additional capital outlay offset billed at \$5 per diem. However, offsets could not reduce construction reimbursements to less than 25 percent of the limits set for Class I prisoners and 35 percent of the limits set for Class II prisoners.

A county could pledge reimbursement payments to be received under the bill to the Michigan Municipal Bond Authority for financing construction costs.

Beginning in 1992, the DOC would annually assess the need for constructing or expanding minimum security jail facilities.

The bill would take effect April 1, 1991, if House Bills 4303, 4304, and 4305 were enacted.

House Bill 4303 would amend the Health and Safety Fund Act to permit a county to pledge to the Michigan Municipal Bond Authority all or a portion of the 5/17 distribution received from the cigarette tax and allocated for jails, juvenile facilities, and court operations. The pledge would have to be against an obligation whose proceeds were used for the acquisition, construction, expansion, or equipping of a jail facility. The bill would take effect April 1, 1991, providing House Bill 4306 was enacted.

MCL 141.472 et al.

House Bill 4304 would amend the Code of Criminal Procedure to permit the commitment of a person to a county jail, camp, or corrections center when the person had been sentenced to incarceration for a maximum of two years or less. However, this provision would not apply unless the state appropriated funds to pay for the expense of maintaining these prisoners. The conditions of probation would be amended to allow up to 24 months to be spent in a county jail, security camp, local community corrections center, or combination of these facilities. The bill would not take effect unless House Bill 4306 was enacted.

MCL 769.28 and 771.3

House Bill 4305 would amend the Code of Criminal Procedure to authorize a judge in a county participating in the state-local partnership to sentence a person to a determinate (flat) sentence in a county facility for up to 24 months, if certain conditions were met. The person being sentenced would have to have a sentencing guidelines score in which the upper limit was no more than 12 months; the offense in question could not have a maximum statutory penalty of more than five years. In order for a judge to impose the sentence, the county would have to have agreed to participate in the construction program, the sentencing guidelines reimbursement program, or both, and the county board of commissioners would have to annually approve the use of the jail or other local facilities for the offenders in question. Additional approval would have to be obtained from the county executive, if any. The court could not impose the determinate sentence provided by the bill unless the state appropriated funds to pay the costs of maintaining the prisoners so sentenced. The bill would not take effect unless House Bill 4306 was enacted.