

HOUSE BILL No. 4306

February 15, 1991, Introduced by Reps. Pitoniak, Ciaramitaro, Leland, Kilpatrick, Wallace, Clack, DeMars, Baade, Dalman, Weeks, McNutt, Perry Bullard and Olshove and referred to the Committee on Corrections.

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) "Department" means the department of corrections.

2 (d) "Eligible project" means a construction project
3 described in section 4.

4 (e) "Jail" means a facility operated by a county for the
5 detention of persons charged with or convicted of a criminal
6 offense.

7 (f) "Jail construction assistance program" means the program
8 created in section 3.

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

16 (h) "Minimum security camp" means a facility operated by a
17 county for the housing of minimum security prisoners who are not
18 considered dangerous or likely to escape, who are eligible for
19 placement in a minimum security facility without the benefit of a
20 security classification departure or waiver, who are primarily
21 expected to engage in employment on public works projects, and
22 who are not serving a sentence for conviction of any of the fol-
23 lowing offenses:

24 (i) A violation of section 520b, 520c, 520d, 520e, or 520g
25 of the Michigan penal code, Act No. 328 of the Public Acts of
26 1931, being sections 750.520b, 750.520c, 750.520d, 750.520e, and
27 750.520g of the Michigan Compiled Laws.

1 (ii) A violation for which a defendant may not be placed on
2 probation under section 1 of chapter XI of the code of criminal
3 procedure, Act No. 175 of the Public Acts of 1927, being section
4 771.1 of the Michigan Compiled Laws.

5 (i) "Minimum security facility" means a minimum security
6 camp, a local community corrections center, or a minimum security
7 portion of a jail.

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

12 (k) "Sentencing guidelines" means the guidelines used for
13 sentencing purposes that are in effect on the date of
14 sentencing.

15 (l) "Sentencing guidelines reimbursement program" means the
16 program created in section 9.

17 Sec. 3. (1) Beginning October 1, 1991, a jail construction
18 assistance program is created and shall be administered by the
19 department.

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

24 Sec. 4. (1) Construction projects for which counties are
25 eligible for reimbursement under the jail construction assistance
26 program are limited to construction of the following types of
27 facilities:

1 (a) A minimum security jail facility, the minimum security
2 portion of a jail facility, or a minimum security camp which is
3 opened for occupancy on or after January 1, 1987 but before
4 January 1, 1996, and is part of a project that results in a net
5 increase in total jail capacity.

6 (b) A local community corrections center, which is opened
7 for occupancy on or after January 1, 1987 but before January 1,
8 1996, and results in a net increase in the total number of local
9 community corrections center beds owned by the county.

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

15 Sec. 5. (1) Capital outlay costs that may be reimbursed
16 under the jail construction assistance program include the costs
17 of purchasing land, preparing the site, construction including
18 conversion of an existing facility, interest expense, and initial
19 equipment excluding vehicles. If off-site utility costs are
20 included, only the portion of those costs attributable to use by
21 the proposed facility are eligible for reimbursement. Jail
22 projects, minimum security camps, and local community corrections
23 center projects each shall be reviewed separately, and the 3
24 types of projects shall not be comingled when computing costs.

25 (2) If a proposed facility will serve prisoners who are not
26 minimum security prisoners in addition to those who are minimum
27 security prisoners, the costs for all housing and program space

1 not designed for use by minimum security prisoners shall be
2 separately identified and may not be reimbursed.

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

8 (4) A county that is eligible for state reimbursement for
9 more than 1 eligible project may elect to be reimbursed on the
10 basis of an average of the reimbursable costs of the projects
11 weighted in proportion to the number of beds designed for minimum
12 security prisoners in the projects. Jail projects and minimum
13 security camp projects shall not be averaged together with local
14 community corrections center construction projects for purposes
15 of this subsection.

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

23 Sec. 6. (1) To receive funds under the jail construction
24 assistance program, a county shall enter into a contract with the
25 department. The contract shall provide for reporting and payment
26 procedures, shall establish the per diem reimbursement rate, and

1 shall contain other provisions necessary to the successful
2 implementation of the contract, as determined by the department.

3 (2) A county that enters into a contract with the department
4 under this section is eligible for construction per diem payments
5 for prisoners in a jail, minimum security camp, or local commu-
6 nity corrections center. Time served by a prisoner in a jail or
7 time served in a minimum security camp facility or a local commu-
8 nity corrections center shall be billed separately at the corre-
9 sponding rates.

10 (3) Reimbursements for any 1 eligible project shall not con-
11 tinue for more than 20 years, and are subject to the following
12 limits for specific types of eligible projects:

13 (a) For a minimum security jail facility, or a minimum
14 security portion of a jail facility:

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

17 (ii) Sixty-five percent of the reimbursable costs of eligi-
18 ble beds occupied by class II prisoners.

19 (b) For a minimum security camp or local community correc-
20 tions center:

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

23 (ii) Seventy-five percent of the reimbursable costs of eli-
24 gible beds occupied by class II prisoners.

25 (4) If any class I prisoners are committed to the jurisdic-
26 tion of the department from a county that is a party to a
27 contract under subsection (1), the reimbursements to that county

1 shall be offset by the cost of housing those prisoners, which
2 shall be billed in accordance with the rates for reimbursements
3 payable to that county under this act. However, the offsetting
4 costs allowed under this subsection shall not reduce the reim-
5 bursement limitations established in subsection (3)(a)(i) and
6 (b)(i) to less than 25%, and shall not reduce the reimbursement
7 limitations established in subsection (3)(a)(ii) and (b)(ii) to
8 less than 35%.

9 (5) The offsets allowed under subsection (4) shall be
10 applied after the offsets under the sentencing guidelines reim-
11 bursement program are applied under section 10(1), but before any
12 pledged reimbursements are transmitted under section 11.

13 (6) The number of beds reimbursable under a contract on any
14 1 day shall not exceed the number of minimum security beds con-
15 tained in the eligible project, and shall not exceed the net
16 increase in the total number of jail beds and minimum security
17 camp beds, or local community corrections center beds, as appro-
18 priate, that are in use in that county as a result of that
19 contract. Any reduction in the total number of jail beds and
20 minimum security camp beds, or local community corrections center
21 beds, in use in that county shall result in a corresponding
22 reduction in the number of beds reimbursable under the contract.
23 A county that enters into a contract under this section shall
24 notify the department before making a reduction in the total
25 number of those beds in use in that county.

1 (7) The eligibility for reimbursements under the jail
2 construction assistance program shall begin on the effective date
3 of the contract applicable to the eligible project.

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

7 (9) If the state fails to appropriate sufficient funds to
8 pay the expense of the sentencing guidelines reimbursement pro-
9 gram or the jail construction assistance program, a county may
10 void a contract entered into under this section, and all affected
11 state prisoners shall be returned to the jurisdiction of the
12 department at the cost of the department.

13 Sec. 7. All of the following conditions shall be met before
14 the department approves a contract under the jail construction
15 assistance program:

16 (a) The county shall submit a jail classification system for
17 review and approval by the department and shall agree to imple-
18 ment the approved plan. The department shall review the plan to
19 ensure that it is designed to efficiently utilize available jail
20 space.

21 (b) The county shall submit schematic plans of the proposed
22 construction for review and approval by the department. The
23 department shall determine the proposed facility or portion of a
24 facility that qualifies as minimum security for purposes of the
25 jail construction assistance program. The department shall
26 ensure that the design provides for efficient operation. This
27 subdivision does not apply to a project for which construction is

1 complete or for which construction contracts were signed before
2 the effective date of this act.

3 (c) If the county has appointed a community corrections
4 advisory board and has submitted to the office of community
5 alternatives a comprehensive corrections plan under the community
6 corrections act, Act No. 511 of the Public Acts of 1988, being
7 sections 791.401 to 791.414 of the Michigan Compiled Laws, the
8 county shall submit as part of the plan documentation establish-
9 ing the need for the proposed construction and the plan for the
10 utilization of the facility.

11 Sec. 8. A construction contract for an eligible project
12 shall be considered a state project for purposes of payment of
13 the prevailing wage as provided under Act No. 166 of the Public
14 Acts of 1965, being sections 408.551 to 408.558 of the Michigan
15 Compiled Laws, and shall be awarded by a competitive bid process
16 that is approved by the department of management and budget and
17 includes advertising for bidders. This section does not apply to
18 projects for which construction is complete or for which con-
19 struction contracts were signed before the effective date of this
20 act.

21 Sec. 9. (1) Beginning April 1, 1991, a sentencing guideline
22 reimbursement program is created and shall be administered by the
23 department.

24 (2) The base rate for the sentencing guidelines reimburse-
25 ment program shall be established annually by the appropriations
26 process of this state, but shall not be less than the actual cost
27 per diem as determined by the department plus 15%, except that

1 the base rate shall not exceed the average state per diem cost
2 for maintaining a state prisoner under the jurisdiction of the
3 department as determined by the department.

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

8 (4) The department may enter into a contract with a county
9 by which the county agrees to provide 50 or more minimum security
10 jail beds or minimum security camp beds for class II prisoners.
11 A contract shall be for a term of not less than 5 and not more
12 than 10 years, and is renewable. The contract shall provide that
13 the minimum security beds shall be utilized subject to the fol-
14 lowing provisions:

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

18 (b) A county that enters into a contract with the department
19 under this subsection also may enter into memorandums of agree-
20 ment with other counties to house prisoners who meet specified
21 criteria from those counties. The memorandums of agreement may
22 contain appropriate provisions to prevent overcrowding of the
23 minimum security facility housing the prisoners.

24 (c) The contract also may contain provisions for the place-
25 ment of prisoners who meet specified criteria and who are serving
26 a term of imprisonment in a state correctional facility. The

1 contract shall specify procedures and conditions to determine and
2 monitor the availability of space for that purpose.

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

5 (a) For class II prisoners placed under subsection (4)(a) or
6 (b), the per diem base rate established under subsection (2) plus
7 5%, except that the per diem base rate shall not be reduced
8 during the term of the contract. A county shall not charge other
9 counties for class II prisoners placed pursuant to subsection
10 (4)(b).

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

14 (6) Notwithstanding subsection (5), if the number of minimum
15 security jail beds in use by class II prisoners under subsection
16 (4)(a) and (b) is less than 25 for an entire quarter and the con-
17 tract entered into under subsection (4) so provides, the reim-
18 bursement rate for that quarter shall be at the base rate estab-
19 lished pursuant to subsection (2).

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

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

9 (2) The provision for offsets in subsection (1) shall be
10 prospective and shall be applied only to prisoners committed to
11 the jurisdiction of the department after April 1, 1991.

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

16 Sec. 11. (1) A county may enter into an agreement with the
17 Michigan municipal bond authority created under section 4 of the
18 shared credit rating act, Act No. 227 of the Public Acts of 1985,
19 being section 141.1054 of the Michigan Compiled Laws, to pledge
20 the reimbursement payments owed to that county under this act to
21 the Michigan municipal bond authority for payment of an obliga-
22 tion that the county incurs with the authority for the purpose of
23 acquisition, construction, expansion, or equipping of a jail,
24 minimum security camp, or local community corrections center.

25 (2) If a county enters into an agreement under
26 subsection (1), the state treasurer, at the department's
27 direction, shall transmit to the Michigan municipal bond

1 authority, or a trustee designated by the authority, the amount
2 of the reimbursement payment that is pledged in accordance with
3 the agreement. The pledge shall be enforced first against reim-
4 bursements payable under the jail construction assistance pro-
5 gram, and then against reimbursements payable under the sentenc-
6 ing guidelines reimbursement program. If the county has entered
7 into an agreement to pledge certain distributions under
8 section 5a of the health and safety fund act, Act No. 264 of the
9 Public Acts of 1987, being section 141.475a of the Michigan
10 Compiled Laws, those distributions shall be paid over to the
11 Michigan municipal bond authority in accordance with that agree-
12 ment before the amount pledged in the agreement under
13 subsection (1) is transmitted.

14 Sec. 12. Beginning with calendar year 1992, the department
15 annually shall assess the need for constructing or expanding min-
16 imum security jail facilities in this state, and the need for
17 funding that expansion or construction under this act. The
18 report shall cover a calendar year, and shall be submitted not
19 later than March 1 of each year to the chairpersons of the senate
20 and house appropriations subcommittees on corrections and to the
21 director of the department of management and budget.

22 Sec. 13. (1) The department shall establish procedures and
23 schedules for quarterly statements, payments, and billings under
24 this act. The procedures shall require that all amounts due and
25 payable between the department and a county under this act be
26 treated as offsetting payments to result in a net outstanding
27 balance for payment.

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

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

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

10 Sec. 16. This act shall take effect on April 1, 1991.

11 Sec. 17. This act shall not take effect unless all of the
12 following bills of the 86th Legislature are enacted into law:

13 (a) Senate Bill No. _____ or House Bill No. 4305 (request
14 no. 00988'91).

15 (b) Senate Bill No. _____ or House Bill No. 4304 (request
16 no. 00988'91 a).

17 (c) Senate Bill No. _____ or House Bill No. 4303 (request
18 no. 01021'91).