



**House  
Legislative  
Analysis  
Section**

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**STATUTE OF LIMITATIONS/PRISON**

House Bill 4007 as enrolled  
Second Analysis (2-10-94)

Sponsor: Rep. Kirk A. Profit  
House Committee: Judiciary  
Senate Committee: Judiciary

***THE APPARENT PROBLEM:***

If a person wants to bring a lawsuit, he or she must do so before the applicable statute of limitations has run out. However, the law makes special provision for various circumstances, among them lawsuits brought by children, the insane, and prisoners. For these people, the running of the statute of limitations is suspended ("tolled") for the period of the "disability." The rationale behind the tolling of the statute for these people apparently is that their ability to make use of the justice system is hampered by their condition. However, many believe that this rationale does not hold true for prisoners, who to many seem quite able to bring lawsuits and generally utilize the justice system while imprisoned. It has been proposed that the tolling of the statute of limitations for prisoners be eliminated.

***THE CONTENT OF THE BILL:***

The bill would amend the Revised Judicature Act to eliminate imprisonment as a cause for tolling (suspension of the running of) the statute of limitations on bringing a lawsuit. Someone serving a term of imprisonment on the bill's effective date could bring an action within one year after the bill took effect, or within any other applicable period of limitation provided by law. Someone who had been released from imprisonment within one year before the bill took effect would similarly have at least one year after release in which to bring an action. "Release from imprisonment" would mean a final release or discharge from a county jail, or release on parole or a final release or discharge from imprisonment in a state or federal correctional facility.

The bill would take effect April 1, 1994.

MCL 600.5851

***FISCAL IMPLICATIONS:***

The Senate Fiscal Agency has said that the bill would have an indeterminate impact on state and local units of government. The impact would depend on the number of lawsuits prevented due to eliminating the tolling of the statute of limitations for imprisonment. (12-7-93)

***ARGUMENTS:***

***For:***

With prison law libraries and plenty of time on their hands, prisoners find it all too easy to manipulate the justice system to their advantage, or at least to attempt to do so. Prisoners have ready access not only to law books, but also to attorneys and legal advice; no doubt this is a factor in the rise in the numbers of prisoner lawsuits in recent years. More to the point, however, is that unlike other plaintiffs, a prisoner may bide his or her time, perhaps for many years, before bringing a lawsuit that the passage of time has made difficult and expensive to defend. The bill would recognize that the purported "disability" of imprisonment is no real disability when it comes to taking legal action.

***Against:***

It is fallacious to argue that prisoners have access to the courts that is equal to people outside of prison. While Michigan prison legal services staff can advise prisoners, they cannot sue the prison system, and while in theory prisoners can obtain private legal counsel on a contingency fee basis, in practice obtaining private counsel while in prison is beyond the ability of most prisoners. Library facilities vary greatly, and are often inadequate.

***Against:***

The bill could increase burdens on some courts, particularly those that have corrections facilities within their boundaries. Courts serving areas with prisons already suffer more than their share of

House Bill 4007 (2-10-94)

prison-related burdens; if the bill results in more prisoners filing suit during their terms of imprisonment, those courts would suffer proportionately with more crowded dockets and increased security demands.

***Against:***

The bill is overbroad, because it would affect all lawsuits brought by prisoners, not just those brought against the state. The bill thus could operate to enable a negligent defendant to escape the consequences of his or her actions due to a prisoner's difficulty in utilizing the justice system while in prison.