



**House  
Legislative  
Analysis  
Section**

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**NO PAROLE WITHOUT G.E.D.**

**House Bill 4206 with committee  
amendments  
First Analysis (3-2-95)**

**Sponsor: Rep. Gregory E. Pitoniak  
Committee: Judiciary and Civil Rights**

***THE APPARENT PROBLEM:***

A common characteristic of prisoners in the state correctional system is low educational achievement. The director of the Department of Corrections has said, in testimony before the House Judiciary and Civil Rights Committee, that the average prisoner functions at the sixth grade level. Some people believe that if people in prison are to have a chance of succeeding once back in society, they need to raise their educational levels while incarcerated. The argument is that if prisoners are able to attain a high school diploma or a general education development (G.E.D.) certificate, they are less likely to return to prison. Legislation has been introduced that would prevent prisoners from being paroled without having gained such credentials, with a few exceptions.

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

The bill would amend the Department of Corrections act (Public Act 232 of 1953), to make a high school diploma or a general education development (G.E.D.) certificate a condition of parole for a prisoner serving a minimum term of at least two years. That is, parole would generally be barred for such a prisoner until the education requirement was met. However, the director of the Department of Corrections (or a designee) could waive the requirement for any prisoner who had a learning disability, who did not have the necessary proficiency in English, who made a good faith effort to complete the requirements for a high school diploma or G.E.D. certificate but who was unsuccessful, or who for some other reason through no fault of his or her own was unable to successfully complete the educational requirements. If a prisoner lacked the necessary proficiency in English, the Department of Corrections would have to provide English language training necessary for the prisoner to begin working toward G.E.D. requirements.

(Note: It is anticipated that an amendment will be developed to make the bill apply to new prisoners; that is, to prisoners coming into the system at some future date.)

The bill also would clarify that certain provisions regarding prisoners subject to disciplinary time ("truth-in-sentencing") would not take effect until Public Act 217 of 1994 (enrolled Senate Bill 40, which provided for "truth-in-sentencing") took effect.

MCL 791.233

***FISCAL IMPLICATIONS:***

A fiscal note from the House Fiscal Agency says that "the bill would lead to likely cost increases in the Department of Corrections, although the precise amount of such increases are indeterminate at this time." The agency says that the bill would apply to about 76 percent of the current prison population, meaning that this is the number of prisoners serving minimum terms of over two years. The agency suggests costs would be incurred for two reasons: the need for greater educational resources and the cost of adding time to prisoners' sentences (by refusing them parole). According to the fiscal note, educational programs received an appropriation of \$23.7 million in fiscal year 1994-95 (with 376.3 FTEs) and resulted in 1,385 prisoners completing the G.E.D. in 1994. There are about 2,000 prisoners on a waiting list for education programs who would have to be served (before release) under this bill, and there are others who do not apply for the programs who would have to enter the programs. The agency also notes that any provisions requiring longer sentences could result in additional operating costs and capital costs to the department. (2-16-95)

House Bill 4206 (3-2-95)

**ARGUMENTS:****For:**

The bill will work to ensure that prisoners in the state correctional system are better equipped educationally to become productive members of society once they are released and that they are less likely to return to prison. This has the potential for reducing recidivism, thus making the streets safer and saving money for the state's law enforcement agencies, courts, and correctional system. The bill is consistent with current Department of Corrections goals, and putting this policy into statute makes it clear that it should remain a priority for the department. Making parole contingent on educational effort and achievement will provide a powerful incentive for prisoners to become better educated. The bill also provides some sensible waivers for prisoners who, for whatever reason, do not have the ability or opportunity to meet the requirements.

**Against:**

While the bill has an admirable objective and is consistent with the goals of the Department of Corrections, there are practical difficulties with such a statutory mandate. For one thing, it would delay the release of prisoners who were due to be released at a time when there is a serious shortage of prison beds. Currently, according to testimony from the corrections department, about 50 prisoners per month (or 370 each year) leave educational programs because they are being paroled. These prisoners, under this bill, would likely remain in prison. Further, since there is a waiting list for G.E.D. programs of about 2,400, and there are prisoners who do not wish to participate in such programs, the number who would not be released would be even larger. Some of these prisoners could just as well continue their educations while on parole outside of prison.

The long waiting list is also an indicator of the difficulty the department would have in implementing the bill. Department representatives have said it is their stated goal that no prisoner leave the department's jurisdiction without a G.E.D. Some \$25 million annually is spent toward this end. And 9,000-10,000 prisoners are in educational or vocational programs. The waiting list for programs has been reduced from 3,700 to 2,400 in the past year. An entire facility is being planned, at Newberry, devoted to educational programming. Some people have estimated that it would take an

additional 32 permanent and 9 temporary educators to clear up the backlog and then educate all prisoners. The department's director believes that the goal could be achieved without additional resources by maximizing educational resources (e.g., better use of classrooms, altering the hours when classes are offered). But either way, implementation would not be easy. Overall, it would be better to make the bill into a policy statement rather than a mandate.

There are also some problems with the waiver provisions. They need to be expanded to cover additional cases, such as the elderly, for whom future employment is not an issue, and prisoners without educational credentials but with proven job-related skills and a successful employment history. This would allow the targeting of educational programs to those who would gain the most benefit. Also, the broadest waiver provisions, allowing for waivers when the failure to complete the educational requirements was "not the fault of the prisoner" or when the prisoner had made a good faith effort but failed, could lead to lawsuits or parole appeals against the department. To the extent parole appeals based on the broad waiver language were successful, the bill's requirements would be rendered more or less meaningless.

**Response:**

A major concern of the department is likely to be addressed in a floor amendment to the bill delaying its effective date. That is, the bill is expected to be modified to apply to prisoners that come into the system after the bill takes effect and not prisoners currently awaiting parole.

**POSITIONS:**

A letter from the Department of Corrections made available at the House Judiciary and Civil Rights Committee said, "While the direction of this bill can be strongly supported, we question the mandatory nature at this time." The department added that it strongly supports the intent of the bill, but "until we are in a position to implement the provisions of this bill, we think it would not be appropriate to enact it in its present form." (2-27-95)