



**House
Legislative
Analysis
Section**

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NO FELONS AS PRISON GUARDS

House Bill 4398 (Substitute H-1)
First Analysis (3-2-95)

Sponsor: Rep. Sandra Hill
Committee: Judiciary and Civil Rights

THE APPARENT PROBLEM:

According to Department of Corrections' (DOC) estimates, more than 100 individuals with records of felony convictions are employed in its facilities. More than 70 of these are corrections officers. Although the DOC currently requires a background check and the director's approval before an individual with a felony record can be hired, some people believe that the number of ex-felons employed by the department is too high, especially in the field of corrections officers. These persons believe that, in order to promote security in prisons, the department should be statutorily prohibited, with certain exceptions, from hiring convicted felons.

THE CONTENT OF THE BILL:

House Bill 4398 would amend the Department of Corrections act (Public Act 232 of 1953) to generally forbid someone with a recent felony conviction from being employed by the Department of Corrections (DOC). The bill would not apply to a person employed by the department before the bill's effective date.

Waivers. As of the bill's effective date an individual with a felony record or facing felony charges could not be employed by the department. The director could waive this prohibition, however, for a former felon who met both of the following requirements:

****The individual was not subject to any pending felony charges and it had been at least five years since the person's final release from incarceration, probation, or parole.**

****An extensive departmental investigation of the individual's background was conducted and the director determined that departmental employment for the person was appropriate. A written report, signed by the director, would have to be made for each such investigation resulting in a determination that employment was appropriate.**

Ineligible Persons. If records available to the DOC showed that an applicant for employment or appointment had been convicted of a felony or was subject to pending felony charges, the DOC would have to inform the applicant of that fact and of his or her resulting ineligibility for employment or appointment. At the applicant's request, the DOC would have to allow him or her to review the relevant portion of the records. If the applicant disputed the records' accuracy, the DOC would have to allow him or her a reasonable period of time to contact the responsible agency or agencies to correct any alleged inaccuracies. If the records, as corrected, would remove the applicant's ineligibility, the DOC would have to allow him or her to reapply for employment or appointment.

MCL 791.205a

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill has no significant fiscal implications for the state. (3-2-95)

ARGUMENTS:

For:

House Bill 4398 would specifically restrict the Department of Corrections' (DOC) practice of hiring felons, and would thereby ensure that the security of correctional facilities is not jeopardized. Although the department has already set standards for hiring individuals with felony records, some people are alarmed that the DOC has hired so many ex-felons, particularly as corrections officers. It is argued that prison life, with its built-in criminal connections, poses too many temptations for ex-prisoners. It is also argued that these ex-prisoners should exhibit some promise that they have been rehabilitated before they are hired. The department's current hiring guidelines, however, contain no requirement that an applicant with a

House Bill 4398 (3-2-95)

felony record be free of the department's jurisdiction for a specific amount of time before he or she can be hired. Under the bill, on the other hand, an ex-felon would have to exhibit good behavior for a period of five years after final release from prison, probation, or parole -- whichever came later -- before applying for employment with the department.

Against:

Fears that ex-felons may cause problems when hired by the DOC may be groundless. According to testimony presented by the director of the Department of Corrections before the House Judiciary and Civil Rights Committee, the department's policy excludes ex-prisoners who have committed certain specified, generally violent, felonies -- including sexual assault and crimes involving drugs -- from department employment. Department policy also precludes an ex-felon from returning as an employee to the facility where he or she was once incarcerated. In any case, many believe that, once a prison sentence has been served, a prisoner has served his or her debt to society and therefore has the right to apply for any job that is available. The bill would violate the rights of these individuals.

POSITIONS:

A representative of the Department of Corrections testified in support of the bill. (3-1-95)

The Michigan Corrections Organization/SEIU Local 526M has no position on the bill. (3-1-95)

The American Civil Liberties Union (ACLU) has no position on the bill. (3-1-95)

The Michigan Council on Crime and Delinquency opposes the bill, since, according to the council, the department has never experienced problems with any of the ex-felons it has employed. (3-1-95)