

This revised analysis replaces the analysis dated 8-5-96.



**House
Legislative
Analysis
Section**

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**PRISONERS TO PAY FOR
COLLEGE COURSES**

**House Bill 4955 as enrolled
Public Act 286 of 1996
Revised Second Analysis (9-9-96)**

**Sponsor: Rep. James McNutt
House Committee: Judiciary and Civil
Rights
Senate Committee: Families, Mental Health,
and Human Services**

THE APPARENT PROBLEM:

Under the State Correctional Facility Reimbursement Act, the attorney general is required to seek to secure reimbursement for the expenses of the state for the cost of care of prisoners for whom, upon certain reports, the attorney general has good cause to believe that the prisoner has sufficient assets to recover at least ten percent of the estimated cost of care of that prisoner or ten percent of that cost for two years, whichever is less. The act defines "cost of care" to mean "the cost to the Department of Corrections for providing transportation, room, board, clothing, security, medical, and other normal living expenses of prisoners under the jurisdiction of the department, as determined by the commission of corrections." The act also defines which assets the state may claim, and specifies that not more than 90 percent of these assets may be used to secure costs and reimbursements under the act. The act defines "assets" rather broadly, but excludes from the definition the homestead of a prisoner up to \$50,000 in value, prisoner wages earned during confinement, and any settlement or judgment involving a prisoner's successful claim against the department.

According to the Senate Fiscal Agency analysis of Senate Bill 684 (which became Public Act 282 of 1984), the Senate Majority Counsel estimated that approximately \$70,000 could be collected annually from prisoners for the costs of their incarceration in state correctional facilities, while the Department of Corrections estimated annual collections of up to \$150,000. According to information from the attorney general, money collected from prisoners under the act in 1993-94 came to \$479,988, and, as the House Fiscal Agency analysis points out, payments in fiscal year 1994-95 totaled \$496,135, while payments received in the current fiscal year to date total \$479,880.

Under a federal consent decree, the state is required to provide college-level classes or programs to certain prisoners, and, under the current year's Department of Corrections budget (Public Act 153 of 1995) -- which appropriates \$1,367,100 for "prisoner rehabilitation and education program" (PREP), the budget line for court-ordered higher education for prisoners -- "it is the intent of the legislature that no appropriations . . . shall be used to pay any costs associated with college or university programming for prison inmates, unless such payments are required by existing court orders or consent decrees." The act further notes that "if the department is successful in modifying the consent decree to eliminate required college and university programming, it is the intent of the legislature that all funding for [PREP] be transferred to vocational/education line items in the budget to eliminate waiting lists for general education development, adult basic education, and vocational education programming." The 1995-96 budget act allots a maximum reimbursement to colleges participating in PREP to \$4 per student contact hour, not to exceed 19.5 contact hours per semester credit hour. The act further notes that funding for the majority of prison higher education programs was discontinued in 1989-90, while funding for higher education was continued by court order at certain institutions, including the State Prison of Southern Michigan (SPSM) in the case of Hadix v Johnson. In addition, the budget states that "it is the intent of the legislature" that if a prisoner receives higher education benefits at state expense, "the prisoner, as a condition of receiving the funds, shall contractually agree" to repay those funds (unless such a requirement would violate a federal consent decree or court order).

While there apparently is no information on the per-prisoner cost of providing higher education classes,

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reportedly 1,081 prisoners (400 of whom are women) currently are enrolled in college classes. Legislation has been introduced that would include the cost of college classes in those costs recoverable under the State Correctional Facility Reimbursement Act.

THE CONTENT OF THE BILL:

The bill would amend Public Act 253 of 1935 to include the cost to the Department of Corrections for providing college-level classes or programs to prisoners in the act's definition of "cost of care," allowing the attorney general's office to seek reimbursement for the state's expenses in providing such care.

In addition, the bill would change the act's definition of "assets" so that money received by a prisoner from any settlement or judgment involving a prisoner's successful claim against the department would no longer be excluded.

MCL 800.401a

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, to the degree that the state was able to collect the costs added by the bill in addition to other costs of care, the bill would minimally increase state revenues. Payments received under the statute totaled \$496,135 in fiscal year 1994-95; payments received in the current fiscal year to date total about \$479,880. (8-5-96)

ARGUMENTS:

For:

Reportedly, the average cost of maintaining a prisoner in the state correctional system comes to almost \$25,000 a year, a figure which, it has been pointed out, could put a student through a year at the most expensive of in-state private institutions of higher education. While some of the cost of keeping these prisoners can be recovered, at least from prisoners who have recoverable assets, the enormous increases in the state corrections budget over the past decade -- which has resulted in flat or even decreasing budgets for other state agencies, including education -- attest to the enormous costs to society of maintaining a high prison population. While the state is still under court order to provide college-level classes and programming to certain prisoners, at the very least the state should seek partial reimbursement for these costs from those prison students who have assets. The bill would accomplish this by including college costs under the State Correctional Facility Reimbursement Act. After all, free, law-abiding, tax-paying citizens have to pay for their college educations. Why should prisoners get a

state-paid college education when other citizens don't?

Response:

While those prisoners who can afford to pay for their education should do so, clearly the vast majority of prisoners are not in a position to do so. In fact, it can be -- and has been -- argued that the reason why many people are in prison has to do with the fact that they are economically and educationally disadvantaged, and that if the state wishes to prevent costly incarceration it might do well to increase access to, and support for, education for all of its citizens at all levels, beginning with the preschool years. As a professor of writing and human communications who teaches inmates in Michigan prisons testified before the House Committee on Judiciary and Civil Rights, prisoners are human beings with problems who deserve all the intelligent and compassionate help a supposedly more enlightened free society can offer them, including health care and education.

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