



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 681 (as enrolled)
Sponsor: Senator Loren Bennett
Senate Committee: Judiciary
House Committee: Judiciary and Civil Rights

PUBLIC ACT 164 of 1996

Date Completed: 2-27-97

CONTENT

The bill amends the Department of Corrections (DOC) law to authorize the DOC to establish a youth correctional facility to house only prisoners committed to the DOC's jurisdiction who are 19 years of age or less and who were convicted as adults for offenses committed as juveniles. The DOC may establish and operate the youth correctional facility or contract on behalf of the State with a private vendor for the construction and/or operation of the facility.

If the DOC contracts with a private vendor to construct, rehabilitate, develop, renovate, or operate any existing or anticipated facility, the Department must require a written certification from the vendor regarding all of the following:

- If practicable to complete the project efficiently and effectively, the vendor must follow a competitive bid process for the construction, rehabilitation, development, or renovation, and the process must be open to all Michigan residents and firms. The private vendor may not discriminate against any contractor on the basis of its affiliation or lack of affiliation with any collective bargaining organization.
- The vendor must make a good faith effort to employ, if qualified, Michigan residents at the facility.
- The vendor must make a good faith effort to employ or contract with Michigan residents and firms to construct, rehabilitate, develop, or renovate the facility.

If the DOC contracts with a private vendor for the youth correctional facility's operation, the Department must require by contract that the personnel employed by the vendor in the facility's operation be certified as correctional officers to the same extent as would be required if those personnel were employed in a correctional facility operated by the DOC. The DOC also must require by contract that the vendor meet requirements specified by the Department regarding security, protection of the public, DOC inspections, programming, liability and insurance, educational services required under the bill, and conditions of confinement, and any other issues the DOC considers necessary for the facility's operation. The DOC also must require that the contract include provisions to protect the public's interests if the private vendor defaults on the contract.

Before finalizing a contract with a private vendor for the construction or operation of the youth correctional facility, the DOC must submit the proposed contract to the legislative standing committees having jurisdiction of corrections issues, the corrections subcommittees of the

Appropriations Committees, and, with regard to proposed construction contracts, the Joint Committee on Capital Outlay. A contract between the DOC and a private vendor for the construction or operation of the youth correctional facility is contingent upon appropriation of the required funding. If the DOC contracts with a private vendor, the selection of that vendor must be by open, competitive bid.

The DOC may not site a youth correctional facility in a city, village, or township unless the local legislative body of that city, village, or township adopts a resolution approving the location.

A private vendor operating a youth correctional facility pursuant to a contract under the bill may not calculate inmate release and parole eligibility dates; award good time or disciplinary credits, or impose disciplinary time; or approve inmates for extension of limits of confinement, unless directed to do so by DOC policy.

A youth correctional facility must be open to visits during all business hours, and during nonbusiness hours unless an emergency prevents it, by any elected State Senator or State Representative.

Once annually, the DOC must report on the operation of the youth facility. Copies of the report must be submitted to the chairpersons of the House and Senate committees responsible for legislation on corrections or judicial issues, and to the Clerk of the House of Representatives and the Secretary of the Senate.

Regardless of whether the DOC operates the facility or contracts with a private vendor to do so, educational services must be provided for juvenile prisoners housed at the facility who have not earned a high school diploma or received a GED, as follows:

- The DOC or private vendor must require that a prisoner whose academic achievement level is not sufficient to allow the prisoner to participate effectively in a program leading to the attainment of a GED certificate participate in classes that will prepare him or her to participate effectively in the GED program, and must provide those classes in the facility.
- The DOC or private vendor must require that a prisoner who successfully completes classes described above, or whose academic achievement level is otherwise sufficient, participate in classes leading to the attainment of a GED certificate, and must provide those classes.

Neither the DOC nor the private vendor may seek to have the youth correctional facility authorized as a public school academy under the Revised School Code.

A private vendor that operates the youth correctional facility under a contract with the DOC must provide written notice of its intention to discontinue its operation of the facility. If the reason for the discontinuance is that the vendor intends not to renew the contract, the notice must be delivered to the DOC Director at least one year before the contract expiration date. If the discontinuation is for any other reason, the notice must be delivered at least six months before the date on which the private vendor will discontinue its operation of the facility. The bill specifies, however, that this provision does not authorize or limit liability for a breach or default of contract.

The bill was tie-barred to Senate Bill 696 and House Bill 4723 (Public Acts 243 and 263 of 1996), which provide for the creation of a juvenile boot camp program. Since Senate Bill 681 was not given immediate effect by the Legislature, it will take effect on March 31, 1997.

FISCAL IMPACT

Assuming that the Department establishes a youth correctional facility (as opposed to leasing or converting existing space), the estimated capital outlay costs will range from approximately \$20.0 million for a "pole" type facility to \$75.0 million for a more traditional "brick and mortar" prison facility. If the facility is constructed by a private entity, the State will have no construction costs, yet will likely pay for leasing the facility or pay higher operational per diems for program participants.

If one assumes that the facility will operate at a capacity of approximately 500, anticipated annual operating costs will range from \$8.4 million to \$20.8 million depending on the amount of programming, and staffing levels provided at the facility. For example, the boot camp program, with increased programming and more intensive staffing patterns, is nearly twice as expensive to operate as a "normal" multilevel prison. If the facility is operated by a private entity, the operational costs will be determined by the contract agreed to by both parties.

The DOC currently incarcerates offenders aged 19 and under in existing prison facilities under current law. As of December 1996, there were 1,553 prisoners 19 years old and under incarcerated in DOC prisons and camps. Under the bill the youth facility will house only juvenile offenders tried and convicted as adults until they reach age 19.

Fiscal Analyst: M. Hansen

S9596\S681ES

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.