



Senate Fiscal Agency
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BILL



ANALYSIS

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House Bill 4398 (Substitute S-1 as reported)
Sponsor: Representative Sandra Hill
House Committee: Judiciary and Civil Rights
Senate Committee: Judiciary

Date Completed: 2-22-96

RATIONALE

Reportedly, the Department of Corrections (DOC) employs over 100 individuals who have records of felony convictions, approximately two-thirds of whom are corrections officers. Although the DOC already has established standards for reviewing applicants' criminal history and hiring individuals with felony records, some people contend that the hiring of ex-felons to work for the Department of Corrections is inappropriate. They believe that, to promote security in prisons and public safety in general, the DOC should be strictly prohibited from hiring convicted felons.

CONTENT

The bill would amend the Department of Corrections law to specify that, beginning on the bill's effective date, the DOC could not employ or appoint a person who had been convicted of a felony or was subject to pending felony charges.

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 the 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.

The bill would not apply to a person employed by or appointed to a position in the DOC before the bill's effective date.

Proposed MCL 791.205a

SENATE COMMITTEE ACTION

The Senate Judiciary Committee adopted a substitute (S-1) to the bill that would prohibit the DOC from hiring anyone who had ever been convicted of a felony or was subject to pending felony charges. As passed by the House, the bill would have prohibited the DOC from hiring a person who had been convicted of a felony or was subject to felony charges, unless the person's final release from incarceration, probation, or parole occurred at least five years previously and the DOC Director conducted an extensive investigation of the applicant's background and determined that the employment was appropriate.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Although the DOC reportedly requires a background check, letters of recommendation from community leaders, and the Director's approval before an individual with a felony record can be hired, convicted felons simply should *not* be employed by the Department. The DOC is responsible for administering the court-ordered punishment of convicted felons; employing them to work for the Department is inconsistent with the fulfillment of that responsibility. Surely, the DOC can find qualified individuals to fill its positions of employment without having to recruit convicted felons.

Response: The bill would go too far. An absolute prohibition against hiring anyone who was

ever convicted of a felony is unnecessary and ill-advised. Under the bill, a former felon could not be employed even as a janitorial worker in an office building or in a secretarial position. In the past, the DOC has hired capable individuals who were once convicted of a felony offense. In making a hiring decision regarding an ex-felon, the Department reportedly has used extensive checks. Indeed, a DOC official testified before the Senate Judiciary Committee that, although the Department has hired individuals once convicted of a felony, each of them has been "off-paper" (i.e., completed his or her sentence) for a long period and had received a relatively minor penalty. None of the 15 ex-felons hired by the current Director has served prison time for his or her offense, and the DOC's current policy is not to hire anyone ever convicted of a drug or sex offense. Rather than strictly prohibiting the hiring of former felons, the bill should codify policies like those used by the current administration. As passed by the House, the bill would have required that applicants be off-paper for five years and that the Director conduct an extensive investigation into the person's background and determine that employment was appropriate before an ex-felon could be hired. This would be consistent with measures passed by the Senate in past legislative sessions.

Opposing Argument

When a prisoner is released back into the community, there is an implicit message that he or she is ready to attempt to be a productive member of society, including engaging in employment. Although the idea of imprisonment as a means of rehabilitation has been abandoned by many, it is hypocritical for the State to refuse to allow the very Department responsible for overseeing a prisoner's reintroduction into the community to employ that prisoner after his or her release. Testimony before the Senate Judiciary Committee by the DOC Director on a similar bill indicated that, although about 38% of released prisoners go back to prison, the percentage varies with the category of offense. If the DOC were to retain discretion in hiring former felons, the Director could ensure that only those individuals least likely to be repeat offenders were hired to work for the Department.

Response: In overseeing the punishment of convicted felons, the DOC is responsible for public safety and the security of the State's prison facilities. Those employed by agencies with these responsibilities should be held to higher standards than other workers are, and employing convicted felons is inconsistent with the DOC's public safety and security roles. For instance, there may be a

greater risk of contraband making its way into prisons when felons are employed as prison guards.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: M. Hansen

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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.