

JAILS; MINORS VISITING INMATES

House Bill 4458 as passed by the House Second Analysis (9-19-97)

**Sponsor: Rep. Michelle McManus
Committee: Corrections**

THE APPARENT PROBLEM:

The rules regarding visiting inmates held in county jails vary from county to county. A number of counties, as well as the state prisons, do not allow a minor to visit an inmate without the permission of the minor's parent or guardian, and in the case of prisons without the presence of an adult family member or legal guardian. However, some counties do allow children to visit inmates without requiring the permission or attendance of the child's parents or guardian. Legislation has been introduced to require all county sheriffs to bar unemancipated minors from visiting jailed inmates unless the child's parent or legal guardian has given written permission for the child to visit.

THE CONTENT OF THE BILL:

The bill would amend the act entitled "Of county jails and the regulation thereof" to provide that an inmate would be prohibited from having visits with a minor less than 18 years old unless the minor's parent or guardian gave written permission for the visit, the minor was the inmate's own child or stepchild, or the minor was emancipated and could show proof of his or her emancipation. The county sheriff would be required to post the rules regarding visitation of inmates by minors at the county jail in a place that was accessible by and visible to the general public. In addition, the county sheriff could compile a list, for each inmate, identifying minors for whom written permission for visits with that inmate had been granted. Once granted, such permission would remain valid until revoked by the sheriff or by the parent or guardian.

The bill specifies that county jails could enact any rules or policies needed to implement a minor's visitation with an inmate as long as the rules or policies did not conflict with the provisions of the bill.

MCL 801.17a

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill could present minor administrative costs for sheriffs in some jurisdictions. (9-19-97)

ARGUMENTS:

For:

There is no good reason to allow a child to visit an inmate in a county jail without the written permission of the child's parents. Written permission is required before a child can go on a school field trip, yet current law allows a child to visit someone in jail without needing permission from his or her parents. This seems unconscionable, especially in light of the risk to the child. Jails are not necessarily safe places and parents can have many reasons for wanting their child to be barred from entering them without permission.

The decision whether to allow a child to visit someone in a county jail should not be left to the child, to the inmate, or to the jail officers; it is clearly the parents' responsibility and should be left to them. This bill requires the jail to bar those minors who do not have written permission from their parent or guardian from visiting inmates at the jail.

Furthermore, the bill could help limit contact between minors arrested for gang activity and other gang members who are not in jail.

Against:

The bill broadly allows a minor child to visit an inmate who is one of his or her parents, in spite of the fact that the inmate could otherwise be barred from seeing the minor child or the other parent could have very legitimate reasons to prevent the child from visiting the inmate-parent. The bill should include provisions allowing the parent that is not in jail more control over the child's life and giving him or her the right to prevent the child from visiting the other parent at the jail.

POSITIONS:

The Grand Traverse County Deputy Sheriffs Association supports the bill. (8-20-97)

The Grand Traverse County Sheriff's Department supports the bill. (9-16-97)

The Michigan Sheriffs' Association neither supports nor opposes the bill. (9-10-97)

The Deputy Sheriff's Association of Michigan submitted a letter supporting the concept of the bill. (4-24-97)

The County of Oakland Office of the Sheriff submitted a letter supporting the concept of the bill. (4-23-97)

Analyst: W. Flory

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.