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**SFA****BILL ANALYSIS**

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Senate Bill 838 (as enrolled)  
Senate Bill 873 (as enrolled)  
Sponsor: Senator Loren Bennett (Senate Bill 838)  
          Senator Leon Stille (Senate Bill 873)  
Senate Committee: Judiciary  
House Committee: Corrections

**PUBLIC ACT 204 of 1998****PUBLIC ACT 269 of 1998**

Date Completed: 9-29-98

**CONTENT**

**Senate Bill 838** amended the Department of Corrections (DOC) law to impose certain requirements on the DOC when it considers transferring prisoners out-of-state due to bed space needs; delete the requirement that a prisoner consent to an out-of-state transfer; provide that, without a prisoner's written consent, he or she may not be confined in another state due to bed space needs for more than one year; specify services, privileges, and programs that a prisoner transferred out-of-state must receive; and delete a requirement that a Michigan prisoner in another state receive a hearing within a specified time.

**Senate Bill 878** amended the DOC law to provide that the Department's hearings division is not responsible for a prisoner hearing that is conducted for prisoners transferred to an institution of another state pursuant to the Interstate Corrections Compact.

A more detailed description of Senate Bill 838 follows.

The DOC law allows the Department to enter into contracts appropriate to implement Michigan's participation in the Interstate Corrections Compact. The contracts may authorize the transfer of prisoners from, or the confinement of prisoners in, correctional facilities under the DOC's jurisdiction. The bill specifies that, when transferring prisoners to institutions of other states under these provisions, the DOC Director must endeavor to ensure that the transfers do not disproportionately affect groups of prisoners according to race, religion, color, creed, or national origin.

Previously, the law stated that unless a transfer was required to protect the prisoner's personal safety, a prisoner could not be transferred to another state for confinement unless he or she consented in writing to the transfer. The bill deleted that provision. Under the bill, unless the prisoner consents in writing, a prisoner transferred under the Interstate Corrections Compact due to bed space needs may not be confined in another state for more than one year.

The bill provides that, in considering transfers of prisoners out-of-state pursuant to the Compact due to bed space needs, the DOC must do all of the following:

- Consider first prisoners who volunteer to transfer as long as they meet the eligibility criteria for a transfer.
- Provide law library materials, including Michigan Compiled Laws, Michigan State and Federal cases, and U.S. Sixth Circuit Court cases.
- Not transfer a prisoner who has a significant medical or mental health need.
- Use objective criteria in determining which prisoners to transfer.

Under the bill, a prisoner who is transferred to an institution of another state must receive all of the following while in the receiving state:

- Mail services and access to the court.
- Visiting and telephone privileges.
- Occupational and vocational programs, such as GED-ABE and appropriate vocational programs for his or her level of custody.
- Programs such as substance abuse programs, sex offender programs, and life skills development.
- Routine and emergency health care, dental care, and mental health services.

Previously, the DOC law provided that a prisoner, sentenced under Michigan law and imprisoned in another state pursuant to the Interstate Corrections Compact was entitled to all hearings, within 120 days of the time and under the same standards that are normally accorded to prisoners similarly sentenced and confined in Michigan. If a prisoner consented in writing, a hearing could be conducted by the corresponding agencies or officials of the other state. The law also required the DOC to hold a hearing requested by another state or by a prisoner. The bill deleted those provisions. The bill specifies that a prisoner is entitled to hearings pursuant to the Compact, and a prisoner is not entitled to a hearing before his or her transfer to another state.

MCL 791.211a et al. (S.B. 838)  
791.251 (S.B. 873)

Legislative Analyst: S. Lowe

## **FISCAL IMPACT**

### **Senate Bill 838**

The bill will result in indeterminate costs to the State and will have no fiscal impact on local government. To the extent that the bill allows the Department of Corrections to incarcerate prisoners out-of-state without their written consent, the DOC may potentially send more prisoners out-of-state than it could if consent were required. Although out-of-state incarceration appears to cost more than in-state incarceration, this is an indirect cost of the bill and will apply only in times of overcapacity.

The Interstate Corrections Compact says that any hearing to which an inmate may be entitled under the laws of the state sending the prisoner to confinement in another state may be carried out by officials of the sending or receiving state according to the choices of the sending state. Senate Bill 838 seems to indicate that the hearings will be the responsibility of the receiving entity. The hearings may include parole or misconduct hearings during out-of-state incarceration. Any hearing will be carried out according to the laws of the sending state. The Compact does not specify whether the sending or receiving state is responsible for costs incurred in providing these hearings, nor does the bill. Thus, there is no indication that the State will incur costs above the costs implied in the pre-existing language.

### **Senate Bill 873**

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

Fiscal Analyst: K. Firestone

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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.