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BILL ANALYSIS

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House Bill 5987 (Substitute H-2 as passed by the House)

Sponsor: Representative Richard Hammel

House Committee: Judiciary

Senate Committee: Judiciary

Date Completed: 11-5-08

CONTENT

The bill would amend the jail overcrowding emergency powers Act to do all of the following:

- Require a county sheriff to give the chief circuit judge certain information regarding county jail prisoners who were not serving a sentence for a criminal conviction, other than prisoners detained in connection with domestic violence, if certain actions taken under the Act did not reduce the county jail's population to the prescribed level within 14 days.**
- Require the chief circuit judge to review the list of prisoners not serving a sentence for a conviction and determine whether their release would present a high risk to public safety, and allow the judge to modify the bond of such a prisoner.**
- Require the Department of Corrections, in cooperation with the Michigan Sheriffs' Association, to report annually on the overcrowding state of emergency procedures.**

Prisoners Not Serving A Sentence

Under the Act, a county sheriff and other officials may attempt to reduce the prisoner population of the county jail through various actions, if the jail's population meets certain criteria. If actions outlined in the Act do not reduce the jail's population to the prescribed level within 14 days after the declaration of a county jail overcrowding state of emergency, the sheriff must give to the chief circuit judge certain information for each prisoner sentenced to and housed in the county jail on that date. Under the bill, this reporting requirement would apply to prisoners serving a sentence for one or more crimes.

The bill would require the sheriff to give the judge the following information for prisoners housed in the county jail who were not serving a sentence for a criminal conviction:

- The name of the prisoner.
- The offense for which the prisoner was being detained in the county jail.
- The amount of the prisoner's bond.
- The date on which the prisoner began his or her detention.
- The name of the judge who ordered the prisoner to be detained.

That reporting requirement would not apply to a prisoner detained in connection with a crime or alleged crime in which the victim was a spouse or former spouse of the prisoner, an individual with whom the prisoner had a child in common, an individual residing or having resided in the same household as the prisoner, or an individual with whom the prisoner had a dating relationship.

Under the Act, after the chief circuit judge reviews the information from the sheriff, the judge must classify prisoners into two groups: those who, if released, would present a high risk to the public safety; and those who, if released, would not present a high risk. The judge must determine a minimum and maximum percentage by which sentences can be reduced, and the sheriff must reduce the sentences of all prisoners who would not present a high risk to the public safety by an equal percentage that is within the minimum and maximum determined by the judge.

Under the bill, the chief circuit judge also would have to review the list of prisoners who were not serving a sentence for a criminal conviction and determine for each prisoner whether release would or would not present a high risk to public safety. The judge could modify the bond of such a prisoner, subject to any conditions reasonably necessary to ensure the appearance of the individual in court.

Annual Report

The bill would require the Department of Corrections, in cooperation with the Michigan Sheriffs' Association, to report annually to the chairpersons of the Senate and House standing committees responsible for legislation concerning corrections. The report would have to evaluate the effect of the overcrowding state of emergency procedures described above.

MCL 801.56

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The annual report required under the bill would result in increased administrative costs in the Department of Corrections.

To the extent that the bill resulted in county jails' achieving lower populations more quickly, local governments would incur decreased costs of incarceration.

Fiscal Analyst: Bill Bowerman
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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.