

DEPORTATION OF COUNTY JAIL INMATES

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5675 (Substitute H-2)
Sponsor: Rep. Richard Hammel
Committee: Judiciary

Complete to 3-8-10

A SUMMARY OF HOUSE BILL 5675 AS REPORTED BY COMMITTEE

The bill would permit county sheriffs to release certain inmates to U.S. Immigration and Customs Enforcement (ICE) for the sole purpose of deportation.

The bill would add a new section to Chapter 171 of the Revised Statutes of 1846, "Of county jails and the regulation thereof." A similar bill, House Bill 4130, that deals with incarcerated prisoners of the Michigan Department of Corrections, was previously reported by the House Appropriations Committee and passed by the House.

House Bill 5676 would apply to any sentenced inmate who met both of the following conditions:

- A final order of deportation had been issued against the inmate by the U.S. Immigration and Naturalization Service (INS).
- The inmate was not serving a sentence for any of the following:
 - first-, second-, third- or fourth-degree criminal sexual conduct;
 - an assaultive crime, as defined in Section 9a of Chapter X of the Code of Criminal Procedure; or,
 - an offense involving domestic violence, as defined in Section 27b of Chapter VIII of the Code of Criminal Procedure.

A sheriff could only release an inmate under the bill's provisions if the sheriff had received – from the INS- assurance that: (1) an order of deportation would be executed or that proceedings would promptly be begun for the purpose of deportation upon release of the inmate from the sheriff's custody; and (2) that the inmate would not be released from the custody of the INS for any other reason than deportation, unless the INS provided the sheriff a reasonable opportunity to arrange for a warrant for the return of the inmate to the sheriff's custody.

An inmate released under the bill would be delivered to the custody of the INS along with a warrant issued by the sentencing court for the inmate's return to the sheriff's custody if the inmate is released by the INS for any reason other than deportation.

If the inmate were not deported, the sheriff would have to execute the warrant and return the inmate to custody. The inmate would then have to serve the remainder of the sentence.

If an inmate deported under this section returned illegally to the U.S., the sheriff, upon notification from any federal or state law enforcement agency that the inmate was in custody, would have to issue a warrant for the return of the inmate. The inmate would have to serve the remainder of his or her sentence. An inmate returned under this provision would not be eligible for any release from confinement during the remainder of the sentence.

MCL 801.24

FISCAL IMPACT:

Counties could experience savings under the bill to the extent that the counties were relieved of the costs of housing inmates transferred to ICE. The magnitude of savings is indeterminate, and it is not known how many inmates might be released under the bill.

POSITIONS:

The Genesee County sheriff submitted a letter supporting the committee substitute. (2-8-10)

A representative of the Michigan Association of Counties testified in support of the bill. (2-10-10)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Bob Schneider

■ 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.