

Legislative Analysis



POLICIES FOR INMATES LESS THAN 21

Phone: (517) 373-8080
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House Bill 4966 (reported from committee w/o amendment)

Sponsor: Rep. Martin Howrylak

Committee: Criminal Justice

Complete to 4-26-16

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4966 adds a new section to the Corrections Code to do the following:

- Require the Department of Corrections, by October 1, 2016, to develop policies ensuring that inmates under 21 years of age be offered age-appropriate out-of-cell programming and outdoor exercise at least five days a week. This applies also to inmates in punitive or administrative segregation.
- By January 1, 2017, require DOC to develop policies ensuring that inmates under 21 are released from their cells each day. Inmates in punitive or administrative segregation must be included. The policies must be based on the guidelines for the use of restraint and seclusion established under Sections 740 and 742 of the Mental Health Code.

(Note: The bill is part of the legislative package to reform juvenile justice. Other bills in the package include HB 4947-4965.)

MCL 791.264a, proposed

FISCAL IMPACT:

As introduced, House Bill 4966 would have no fiscal impact on the state or on local units of government. Depending on the policies that are developed and implemented, there could be significant costs to the state Department of Corrections.

BRIEF DISCUSSION:

Due to immaturity and impulsivity, younger inmates often act out. Or, they may be targets of older and more aggressive inmates. Whatever the reason for the placement, younger inmates who are placed in punitive or administrative segregation (also known as solitary confinement or isolation) have a higher tendency to spiral downward. If the youthful inmate has a mental illness, isolation can cause destabilization. Even when in the general population, the fact is that there is a higher incident of youthful inmates who inflict self-harm or take their own lives. The bill addresses the issue by requiring that inmates 20 years old or younger be released from their cells for at least a short time each day and receive age-appropriate programming and exercise most days of the week. The interaction with others can help minimize the dehumanizing effects of incarceration and possibly

mitigate institutionalization that is more common with younger inmates, both of which work against rehabilitation and successful reintegration after release.

Further, the youthful inmate standard of the federal Prison Rape Reduction Act (PREA) requires that facilities avoid placing inmates under 18 years of age in isolation. In addition, PREA requires that inmates be given daily large-muscle exercise and any legally required special education courses. They must also be provided with access to other programs and work opportunities. Of course, this is to the extent possible, but that is no excuse to avoid providing such opportunities.

Concern has been expressed over the cost to the Department of Corrections to provide such programming, exercise, and out-of-cell time for offenders 20 years of age and younger. The management of populations within prisons is very complex; for example, certain populations may need to be separated from each other (members of rival gangs, as an example)—and it could be difficult to provide the space and staff necessary to provide proper supervision, not infringe on the rights of other inmates, and keep safety high for all concerned.

POSITIONS:

The following entities expressed *support* for the bill:

Michigan Council on Crime and Delinquency
Michigan Catholic Conference
Michigan United
Governors' Committee on Juvenile Justice
Michigan Legislative Black Caucus
Family Advisory Board, Family Participation Program
First Unitarian Universalist Church of Ann Arbor
Coalition Against Mass Incarceration
Michigan's Children
Michigan Probate Judges Association (in concept)
National Association of Social Workers-MI
Citizens Alliance on Prisons & Public Spending (CAPPS)
A.R.R.O. (Advocacy, Reentry, Resources, & Outreach)
Criminal Defense Attorneys of Michigan (in concept)
Citizens for Prison Reform
ACLU of Michigan

The Michigan Department of Corrections is *neutral* on the bill.

The following entities expressed *opposition* to the bill:

Michigan Association of Counties
Ottawa County
Livingston County

Wayne County
Prosecuting Attorney Association of Michigan

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