

REHABILITATION PLANS FOR PRISONERS 18-22 YEARS OLD

Phone: (517) 373-8080
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Senate Bill 22 reported as Substitute H-1

Sponsor: Sen. Bert Johnson

House Committee: Michigan Competitiveness

Senate Committee: Michigan Competitiveness

Complete to 3-6-17

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

(Enacted as Public Act 16 of 2017)

BRIEF SUMMARY: The bill adds a new requirement that the Department of Corrections develop rehabilitation plans for prisoners 18-22 years old and provide programming designed for youth of that age, and requires an annual report from the DOC to the Legislature.

FISCAL IMPACT: Senate Bill 22 could have an indeterminate fiscal impact on the state and would have no fiscal impact on local units of government. The fiscal impact to the state Department of Corrections would depend on the costs involved with developing rehabilitation plans for prisoners who are 18 to 22 years old. Also, the bill would require the department, to the extent the department is able, to provide programming designed for youth rehabilitation to prisoners who are 18-22 years old, according to recommendations made by circuit courts. Under the bill, the department would be required to consult with the family divisions of circuit courts for recommendations on this specific programming. It is not known to what extent current department programming would meet recommendations made by circuit courts.

THE APPARENT PROBLEM:

Federal law requires those under the age of 18 convicted of crimes and sentenced to adult prisons to be housed separately from those older than 18, largely to protect them from being preyed upon by older inmates. But what about those offenders who are deemed adults by chronological age but, according to the latest scientific research, do not reach adulthood until the brain matures around age 25? In Michigan, prisoners in the 18-22 year range are housed in the same facilities as older inmates. A few states are considering, or in the beginning process of, housing this age group separately from their older and younger counterparts.

According to the Michigan Department of Corrections (DOC), the state has tried separate housing for this age group at least twice in the past, but neither attempts were successful. Strangely, the reasons *for* and also *against* housing this population are remarkably similar. Due to the brain still being under development, youthful inmates tend to have the poorest impulse control and are the most likely to be involved in gang activity. Having them in mixed age facilities can result in these younger offenders preying on and extorting older inmates, yet also being preyed upon and manipulated by the older ones. Yet isolating them in separate facilities prevents older inmates mentoring the younger ones and providing a more stable environment. Plus, the state's past attempts at housing the 18-22 population separately resulted in what some referred to as "Gladiator School" due to the propensity of these same-aged prisoners to engage in rough and at times violent behaviors with each

other. Still, the 18-22 population is considered the most likely to benefit from programs that focus on rehabilitation.

In an effort to decrease recidivism, increase public safety, and ensure prisons are safe for employees and prisoners alike, legislation is being offered to require the DOC to develop age-appropriate rehabilitation plans and programming for the 18-22 year olds housed in Michigan prisons.

THE CONTENT OF THE BILL:

The bill adds a new section to the Corrections Code to require the Department of Corrections to develop rehabilitation plans for prisoners in DOC custody who are approximately 18 to 22 years of age. The rehabilitation plans must specifically take the prisoner's age into consideration. In addition to the extent it is able, the DOC must provide programming designed for youth rehabilitation for prisoners in that age range in its custody. The bill requires the DOC to consult with the administrators of the family divisions of the state's circuit courts and seek recommendations regarding the selection of programming.

The programming could include, but would not be limited to, both of the following:

- ✓ Mentoring programs provided by individuals with no misdemeanor or felony convictions.
- ✓ Career skills evaluation and career counseling.

Further, the DOC must submit an annual report to the Senate and House committees responsible for legislation concerning corrections issues detailing all of the following regarding prisoners in DOC custody who are approximately 18 to 22 years of age:

- The number of these prisoners in DOC custody.
- The security classification at which each is housed.
- The number housed at each correctional facility in the state.
- The number, if any, who were moved from one facility to another in a manner that interrupted the prisoner's programming.
- The number who have completed programming, and if so, the specific programming that had been completed.

"Correctional facility" is defined to mean a facility operated by the DOC, or by a private entity under contract with the DOC, housing prisoners under the jurisdiction of the DOC.

The bill takes effect 90 days after enactment.

MCL 791.262d, proposed

HOUSE COMMITTEE ACTION:

The Senate-passed version called for the DOC to house prisoners 18 to 22 years of age only with prisoners in the same approximate age range. The House substitute, by comparison, requires the DOC to develop rehabilitative plans and programming specific to 18 to 22 year olds under its jurisdiction.

ARGUMENTS:

For:

There are approximately 3,200 inmates in state prisons between the ages of 18 and 22 years of age. The bill in its current form acknowledges recent scientific research that the human brain does not fully mature until the mid-twenties. This means, say observers, that youthful offenders are more amenable to rehabilitation than their older counterparts. Often certain programming necessary to life changes such as substance abuse counseling, anger management, and programs for sex offenders are available only at the end of a prisoner's sentence or when they are near release on parole. Requiring DOC to develop rehabilitation plans and, to the extent feasible, provide programming appropriate for rehabilitating 18-22 year olds may mean that some services and programming are offered earlier when they can do the most good and when they may even change the inmate's behavior while still incarcerated. This could positively impact the prison culture, making it safer for staff and inmates alike.

The bill also gives the DOC flexibility in how to house this challenging population, such as creating special units within mixed-age facilities to keep more violent youth away from their young peers. In short, the bill rightly focuses DOC efforts and resources on rehabilitation—both in individual plans and also for system-wide programming.

Rather than have a one-size-fits all approach to housing, the bill allows the department to fit currently available programming, and programming in the future, to the needs of individual youthful prisoners. This is important as not all prisons are able to have all types of programs onsite. For instance, some, but not all prisons, offer woodworking or culinary arts programs or the new Vocational Village. Some offer certificates in certain fields that increase an inmate's employability upon release. Having flexibility to match a prison with a prisoner's needs and security level should increase rehabilitation efforts while maintaining safety, as will developing newer and innovative programs designed specifically to reach the 18-22 population.

For:

The requirement in the bill for the DOC to consult with family divisions of circuit courts and seek their recommendations is also an important piece. Currently, youths who are being adjudicated in the juvenile justice system can remain under the court's jurisdiction until 21 years of age. Judges also have a wide range of options to choose from when deciding on a sentence for these offenders. This makes the judges uniquely qualified to recommend approaches and programs known to reach 18-22 year olds.

For:

Many in prison came from troubled pasts, and many were victims themselves of physical, sexual, and emotional abuse and neglect. Though counseling services are available in prisons, many do not seek out these services due to a prison culture that creates a stigma that can increase the likelihood of being victimized by other inmates. If the rehabilitation plans and programming developed under the bill provide more, or even require, counseling, not only will more youths receive the help they need to move past their "pasts", but it may also chip away at the stigma so prevalent in prisons and eventually lead to more prisoners of all age groups seeking the help available to them.

Against:

The bill prohibits DOC from using mentors who have a criminal record of any kind. This runs counter to the department's request for statutory changes allowing the hiring of individuals with felony convictions for some positions as long as there were no issues with safety or security. As explained during testimony on House Bill 4065, there are times when an offender is rehabilitated, obtains education after release, and may be the best person for some openings such as teaching classes. To automatically close the door to ex-felons or even someone in their 50s who had a minor in possession misdemeanor at 19 from being able to mentor troubled or at-risk youthful offenders doesn't make sense. Some of these individuals may be the most qualified to speak realistically about the need to change one's path in life, the obstacles ahead, but also the rewards of working hard and living a productive and lawful life.

POSITIONS:

The Attorney General indicated support for the bill. (3-1-17)

The Michigan Catholic Conference indicated support for the bill. (2-8-17)

Goodwill Industries of Greater Detroit indicated support for the bill. (2-8-17)

Grand Rapids Area Chamber of Commerce indicated support for the bill. (3-1-17)

UAW Local 6000 is neutral on the bill. (3-6-17)

Citizens Alliance on Prisons and Public Spending (CAPPS) indicated a neutral position on the bill. (3-1-17)

The Department of Corrections has not yet taken a formal position on the H-1 substitute. (3-5-17)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Robin Risko

■ 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.