



**House
Legislative
Analysis
Section**

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PRISONS: DOUBLE BUNKING

**House Bill 4156 as enrolled
Public Act 18 of 1995
Second Analysis (6-8-95)**

**Sponsor: Rep. Sandra Hill
House Committee: Judiciary and Civil
Rights
Senate Committee: Judiciary**

THE APPARENT PROBLEM:

The Department of Corrections act (Public Act 232 of 1953) contains a requirement for single occupancy cells that originally was part of the now-repealed Prison Overcrowding Emergency Powers Act, which was enacted in 1980; under this requirement, new corrections facilities were to have only single occupancy cells. However, subsequent needs for additional prison bed space led to amendments in 1984, 1986, and 1987 that created exemptions to the single occupancy requirement. Public Act 315 of 1984 permitted the purchase, lease, construction, or conversion of facilities with multiple occupancy cells during 1985, and allowed the department to use such housing facilities until January 1, 1987. Public Act 199 of 1986 extended the time period during which the department could utilize multiple occupancy cells until January 1, 1988. Public Act 100 of 1987 extended the time period to January 1, 1991, for prison space acquired or converted between January 1, 1985 and December 1, 1988. Finally, Public Act 469 of 1988 allowed the department to use multiple occupancy cells until January 1, 1997 in prisons acquired or converted between January 1, 1985 and December 31, 1992.

The state currently has 21,000 prisoners in multiple-occupancy cells that would otherwise be subject to the statutory single-occupancy requirement. Chronic overcrowding problems, which led to the creation and extension of the exceptions to the single-bunking requirement, have not eased. On the contrary, the corrections department reports that under current multiple-occupancy arrangements, it will soon run out of bed space, and will be short 1,220 beds by the end of 1995. The department is projecting a worsening problem with shortage of bed space, necessitating the construction of new prison facilities. Some people believe that the time

has come to eliminate the single-occupancy requirement altogether.

THE CONTENT OF THE BILL:

The bill would repeal a section of the Department of Corrections act (Public Act 232 of 1953) that requires all new prison cells to be single occupancy cells and to comply with all applicable federal and state laws and the rules and regulations promulgated under those laws. The provision to be repealed allows the department to use multiple-occupancy cells until January 1, 1997, however, in new housing that was purchased, leased, constructed, or converted for use as a prison between January 1, 1985, and December 31, 1992.

MCL 791.269

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency, the bill would have an indeterminate fiscal impact on the state. If the Department of Corrections could not continue double-bunking after January 1, 1997, it would cost approximately \$48.8 million in additional operating costs and \$500 million in new capital construction costs (for 10 new prisons) beginning in 1997. (3-27-95)

ARGUMENTS:

For:

The bill would eliminate the statutory requirement for single occupancy cells. While this requirement is not currently in effect for certain prisons constructed or converted between January 1, 1985 and December 31, 1992, existing statute calls for it

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to take effect January 1, 1997. The current effective date is the last in a long line of repeatedly-postponed effective dates. Clearly, multiple occupancy is a necessity that is here to stay, at least for the foreseeable future. Under the bill, current and future bedspace shortages, which are projected to be severe and worsening, would be eased at least in the sense that they would not be exacerbated by the triggering of an ill-timed single occupancy requirement. The bill simply would allow the current multiple occupancy arrangements to be maintained, and expanded to other facilities, if necessary. Standard use of multiple-occupancy cells reduces construction costs and increases prison capacity.

Against:

Single-occupancy cells tend to provide a modicum of privacy and reduce inmate tensions, and give guards better control over dangerous situations. With multiple occupancy, when a belligerent prisoner must be removed from a cell, a guard may be exposed to attack from cellmates. The department tracks major critical incidents (including threatening behavior, fighting, stabbing, and worse) attributable to double bunking, and while the numbers are not particularly large, they are significant, amounting to roughly one or two dozen incidents per year. Sound prison management and regard for staff safety suggests that single occupancy should be retained as basic policy, even if circumstances demand that the policy be temporarily set aside.

Against:

Many are concerned about the effects of double-bunking and overcrowded facilities on rehabilitative efforts. If prisoners are maintained in multiple-occupancy arrangements in facilities that were designed for single-occupancy, efforts to provide adequate work and educational programs may be compromised, with the result that opportunities to reduce recidivism and improve public protection are lost.