



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 345 (as passed by the Senate)
 Sponsor: Senator William Van Regenmorter
 Committee: Judiciary

Date Completed: 4-27-95

RATIONALE

In recent months, a situation at the Muskegon Correctional Facility spurred the Department of Corrections (DOC) to review visitation procedures at Michigan prisons. A prisoner who had been convicted of criminal sexual conduct (CSC) reportedly conspired with a female visitor to persuade a third party to bring her minor daughter to the prison for a visit. The child then was sexually molested by the prisoner in the facility's visiting area. The DOC apparently is in the process of promulgating rules that would allow the Department to maintain greater control over who may be allowed to visit inmates. Some feel, though, that prisoners convicted of sex-related offenses against minors should be strictly prohibited by statute from having contact visits with minors.

CONTENT

The bill would amend the Department of Corrections law to specify that a prisoner could not be allowed to have a visit involving the possibility of physical contact with the offender's victim or with a person who was less than 18 years of age, if the prisoner had been convicted of committing or attempting to commit CSC in the first, second, third, or fourth degree or gross indecency between males, between females, or between a male and a female, and if any victim of the offense were less than 18 when the offense occurred.

Proposed MCL 791.268

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The bill would prevent an incident like the one that occurred at the Muskegon Correctional Facility from arising again. Incarcerated prisoners should be precluded, as much as possible, from every opportunity to commit further offenses. It is unconscionable that a convicted child molester could victimize yet another innocent child while being held under the jurisdiction of the DOC. Although prohibiting a prisoner from having any visit by a minor that could involve physical contact might seem like an extreme measure, the seriousness of the crimes to which the bill would apply and the vulnerability of the victims and potential victims warrant this action.

Response: The bill would go too far in reacting to the problem that occurred in Muskegon. The child who was victimized by that prisoner had no reason to visit the prison, as neither she nor her mother evidently had any prior relationship with the prisoner. Rather than prohibiting these types of visits, which would prevent a prisoner's child from being able to hug his or her own parent, the DOC should simply be given more authority to control who visits inmates housed at its facilities. The DOC apparently has little authority to deny visitors access to prisoners, even if they are unknown to the prisoners. The Department apparently has taken steps to remedy this problem through the administrative rules process, by drafting proposed rules that would allow the DOC to deny certain individuals access to prison visiting areas.

Opposing Argument

The bill causes some basic operational concerns for DOC officials. In testimony before the Senate Judiciary Committee, the DOC Director said that more than 7,100 offenders currently are serving prison terms for CSC or gross indecency offenses

(though that figure was not broken down based on victims' ages), and only about 800 of those prisoners are housed in facilities that have noncontact visiting accommodations. Maintaining a record of which prisoners could not have visits from any children in an area that allowed for contact would be difficult; providing noncontact accommodations, which do not currently exist at most DOC facilities, would be very costly; and simply prohibiting child visitors for all prisoners, in order to enforce the bill effectively, would be unfair to the majority of inmates.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would result in minimal costs for the Department of Corrections, for identifying prisoners who had previous convictions of offenses that would preclude them from visits with people under the age of 18. Depending on how the bill would be implemented, there would be no additional costs or significant additional costs. If the Department implemented the bill simply by denying the affected prisoners visits with minors, in facilities without noncontact visiting areas, there would be no additional costs. On the other hand, if the Department chose to provide separate noncontact visiting areas at the prisons without them, the Department would incur significant costs.

Fiscal Analyst: M. Hansen

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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.