



Senate Fiscal Agency
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BILL



ANALYSIS

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House Bill 4156 (Substitute H-1 as reported without amendment)
Sponsor: Representative Sandra Hill
House Committee: Judiciary and Civil Rights
Senate Committee: Judiciary

Date Completed: 3-27-95

RATIONALE

The Department of Corrections (DOC) law contains a requirement for single-occupancy cells that originally was part of the now-repealed Prison Overcrowding Emergency Powers Act, which was enacted in 1980.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 provision, new corrections facilities are to have only single-occupancy cells. Subsequent needs for additional prison bed space led, however, 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 DOC to use such housing facilities until January 1, 1987. Public Act 199 of 1986 extended the time period during which the DOC could use 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 1988. Finally, Public Act 469 of 1988 transferred the provision to the DOC law and amended it to allow the use of multiple-occupancy cells until January 1, 1997, in prisons acquired or converted between January 1, 1985, and December 31, 1992.

Currently, the State reportedly has about 21,000 prisoners in multiple-occupancy cells that would otherwise be subject to the statutory single-occupancy requirement. Chronic crowding problems, which led to the creation and extension of the exceptions to the single-bunking requirement, have not eased. On the contrary, the DOC reports that, under current multiple-occupancy arrangements, it soon will run out of bed space, and will be short 1,220 beds by the end of 1995. The Department is projecting that the problem will continue, necessitating the construction of new prison facilities. In the

meantime, some feel that the single-occupancy requirement should be eliminated altogether.

CONTENT

The bill would repeal a section of the Department of Corrections (DOC) law that requires all new housing or facilities purchased, leased, constructed, or converted by the DOC for use as prisons to have only single-occupancy rooms or cells and comply with all applicable Federal and State laws and rules and regulations promulgated under those laws. The provision that would be repealed allows the DOC to use multiple-occupancy rooms or cells until January 1, 1997, however, in new housing or facilities that were purchased, leased, constructed, or converted for use as a prison from January 1, 1985, to December 31, 1992.

MCL 791.269

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 eliminate the statutory requirement for single-occupancy cells. While this requirement is not currently in effect in corrections facilities constructed or converted between January 1, 1985, and December 31, 1992, the DOC law calls for it to take effect on January 1, 1997. The current effective date is the latest 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 bed space 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. By repealing the single-occupancy requirement, the bill simply would allow the multiple-occupancy arrangements in new facilities to be maintained, and expanded to other facilities, if necessary.

Opposing Argument

Single-occupancy cells provide a degree of privacy, reduce inmate tensions, and give guards better control over dangerous situations. With multiple occupancy, for instance, when a belligerent prisoner has to be removed from a cell, a guard is exposed to attack from cellmates. The DOC tracks major critical incidents attributable to double-bunking, and, while the numbers are not particularly large, they are significant, reportedly amounting to roughly one to two dozen incidents per year. Sound prison management and regard for staff safety suggest that single occupancy should be retained as basic policy, even if circumstances demand that the policy be set aside occasionally on a temporary basis.

Response: It is not clear what constitutes an incident attributable to double-bunking. Some of the reported incidents may not be directly caused by having more than one prisoner in a cell, but rather may have occurred coincidentally in double-bunking situations. In addition, it is not clear how many of these incidents were directed against prisoners and how many were directed against guards. Further, the bill would not mandate multiple occupancy, but simply would allow double-bunking. The DOC reportedly would continue to use single-occupancy placement in reception centers, maximum security cells, administrative segregation, and facilities that operate under Federal consent decrees.

Opposing Argument

Many are concerned about the effects of double-bunking and crowded 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 could be compromised, with the result being that opportunities to reduce recidivism and improve public protection could be lost.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State government.

Current law requires single cell occupancy at all institutions, except that those built between January 1, 1985, and December 31, 1992, may have multiple-occupancy cells until January 1, 1997. In practice, the Department is currently double-bunking at at least three institutions that were built prior to 1985. The remainder of the double-bunked facilities were built since 1985. If the Department could not continue double-bunking after January 1, 1997, it would cost approximately \$48.8 million in additional annual operating costs and \$500.0 million in new capital construction costs beginning in 1997.

The Department currently has approximately 6,100 double-occupancy cells, meaning that approximately 12,200 prisoners are affected by double-bunking. It currently costs an additional \$10,500 to double-bunk a prison cell, compared with an average \$18,500 cost for single-bunking. (In other words, with double-bunking, average costs per prisoner are $\$18,500 + \$10,500 / 2$ or \$14,500 per inmate compared with average costs of \$18,500 for single-bunking.) In total, the Department spends about \$64.1 million on double-bunking, yet would spend nearly \$112.9 million if these additional cells were all single-bunked. Operational savings as a result of double-bunking, therefore, approximate \$48.8 million annually. In addition, eliminating double-bunking would require the construction of an additional 6,100 prison cells (10 new prisons), at a cost of \$50.0 million per facility, or a total of \$500.0 million.

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.