

SENATE BILL No. 823

October 19, 2005, Introduced by Senator SWITALSKI and referred to the Committee on Judiciary.

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending sections 62, 62b, and 62c (MCL 791.262, 791.262b, and
791.262c), section 62 as amended by 1987 PA 251, section 62b as
amended by 2000 PA 211, and section 62c as amended by 1988 PA 293.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 62. (1) As used in this section:

(a) "Holding cell" means a cell or room in a facility of a
local unit of government that is used for the detention, **FOR NOT**
MORE THAN 12 HOURS, of 1 or more persons awaiting processing,
booking, court appearances, transportation to a jail or lockup, or
discharge. ~~for not to exceed 12 hours.~~

(b) "Holding center" means a facility that is operated by a

1 local unit of government for the detention, **FOR NOT MORE THAN 24**
 2 **HOURS**, of persons awaiting processing, booking, court appearances,
 3 transportation to a jail or lockup, or discharge. ~~—, for not to~~
 4 ~~exceed 24 hours.~~

5 (c) "Jail" means a facility that is operated by a local unit
 6 of government for the detention, **FOR NOT MORE THAN 1 YEAR**, of
 7 persons charged with, or convicted of, criminal offenses or
 8 ordinance violations ~~—, AND~~ persons found guilty of civil or
 9 criminal contempt. ~~—, or a facility which houses prisoners pursuant~~
 10 ~~to an agreement authorized under Act No. 164 of the Public Acts of~~
 11 ~~1861, being sections 802.1 to 802.21 of the Michigan Compiled Laws,~~
 12 ~~for not more than 1 year.~~

13 (d) "Local unit of government" means ~~any~~ **A** county, city,
 14 village, township, charter township, community college, college, or
 15 university.

16 (e) "Lockup" means a facility that is operated by a local unit
 17 of government for the detention, **FOR NOT MORE THAN 72 HOURS**, of
 18 persons awaiting processing, booking, court appearances, or
 19 transportation to a jail. ~~—, for not to exceed 72 hours.~~

20 (f) "State correctional facility" means a facility or
 21 institution **THAT HOUSES STATE PRISONERS AND IS** maintained and
 22 operated by the department.

23 (2) State correctional facilities shall be administered by the
 24 ~~bureau of prisons~~ **CORRECTIONAL FACILITIES ADMINISTRATION.**

25 (3) The department **OF LABOR AND ECONOMIC GROWTH** shall
 26 supervise and inspect jails and lockups that are under the
 27 jurisdiction of the county ~~sheriff~~ **SHERIFFS** to obtain facts

1 concerning the proper management of the jails and lockups and their
2 usefulness. The department **OF LABOR AND ECONOMIC GROWTH** shall
3 promulgate rules and standards promoting the proper, efficient, and
4 humane administration of jails and lockups that are under the
5 jurisdiction of the county ~~sheriff~~ **SHERIFFS** pursuant to the
6 administrative procedures act of 1969, ~~Act No. 306 of the Public~~
7 ~~Acts of 1969, being sections 24.201 to 24.315 of the Michigan~~
8 ~~Compiled Laws~~ **1969 PA 306, MCL 24.201 TO 24.328.**

9 (4) The department **OF LABOR AND ECONOMIC GROWTH** may grant a
10 variance to the rules and standards promulgated under subsection
11 (3).

12 (5) Except as provided in subsection (3), the department **OF**
13 **LABOR AND ECONOMIC GROWTH** shall not supervise and inspect, or
14 promulgate rules and standards for the administration of, holding
15 cells, holding centers, or lockups. However, the department **OF**
16 **LABOR AND ECONOMIC GROWTH** shall provide advice and services
17 concerning the efficient and humane administration of holding
18 cells, holding centers, and lockups at the request of a local unit
19 of government.

20 (6) The ~~commission~~ **DEPARTMENT OF LABOR AND ECONOMIC GROWTH**
21 may enforce any reasonable order with respect to jails and lockups
22 subject to supervision and inspection pursuant to subsection (3)
23 through mandamus or injunction in the circuit court of the county
24 where the jail is located through proceedings instituted by the
25 attorney general on behalf of the ~~commission~~ **DEPARTMENT OF LABOR**
26 **AND ECONOMIC GROWTH.**

27 (7) The county board of commissioners may determine whether

1 the sheriff's residence is to be part of the county jail.

2 (8) The sheriff or the administrator of a jail or lockup,
3 subject to supervision and inspection under subsection (3), shall
4 admit to the jail or lockup any member of the ~~commission~~
5 **DEPARTMENT OF LABOR AND ECONOMIC GROWTH** or an authorized designee
6 of the ~~commission~~ **DEPARTMENT OF LABOR AND ECONOMIC GROWTH**, for
7 the purpose of visitation and inspection.

8 (9) The sheriff or the administrator of a jail or lockup
9 subject to supervision and inspection under subsection (3) shall
10 keep records of a type and in a manner reasonably prescribed by the
11 ~~commission~~ **DEPARTMENT OF LABOR AND ECONOMIC GROWTH**. The
12 ~~commission~~ **DEPARTMENT OF LABOR AND ECONOMIC GROWTH** shall provide
13 the forms required for keeping the records.

14 (10) Any person who violates ~~subsections~~ **SUBSECTION** (8) or
15 (9) ~~shall be~~ **IS** guilty of a misdemeanor.

16 Sec. 62b. (1) The rules and standards promulgated under
17 section 62(3) ~~shall~~ **DO** not prohibit the housing of 2 inmates in a
18 county jail cell ~~which~~ **THAT** is designed and constructed for
19 single occupancy and ~~which~~ **THAT** meets either of the following
20 conditions:

21 (a) The cell is at least 65 square feet in area and provides
22 unrestricted access to a day area ~~which~~ **THAT** is available for use
23 by the inmates other than those inmates being disciplined. The day
24 area shall be available at least 14 hours per day and shall contain
25 an average of at least 20 additional square feet of space per
26 inmate.

27 (b) The cell is at least 55 square feet in area and both of

1 the 2 inmates housed in the cell participate in a day parole
2 program for not less than 32 hours per week.

3 (2) For purposes of housing inmates as provided for under this
4 section, the sheriff of the county shall develop and implement a
5 classification system classifying the county jail population
6 according to all of the following:

7 (a) Behavior characteristics.

8 (b) Similar physical characteristics.

9 (c) Age.

10 (d) Type of crime committed and criminal history.

11 (e) Gender.

12 (3) The classification system under subsection (2) shall be
13 submitted to and approved by the department **OF LABOR AND ECONOMIC**
14 **GROWTH**. Any classification system in effect on December 31, 1987
15 shall continue in effect until changed as provided in this
16 subsection.

17 (4) A person who has no prior criminal convictions may only be
18 housed with another inmate who does not have a prior felony
19 conviction.

20 (5) Cells in which 2 inmates are housed shall have doors
21 ~~which~~ **THAT** allow visual supervision, and inmates shall be under
22 visual supervision at least every hour.

23 (6) An inmate who is subject to section 33b(a) to (cc) shall
24 not be housed in a cell with another inmate as provided ~~for~~ under
25 this section, unless the sentencing judge authorizes the inmate for
26 that housing.

27 (7) If the state incurs any expense or is liable for damages

1 on any judgment for an action brought as the result of a county
2 housing 2 inmates in a cell as provided in this section, the county
3 in which the action arose shall fully indemnify the state for the
4 expense or damages.

5 (8) No more than 75% of the total inmate population may be
6 housed 2 to a cell and pretrial inmates must be housed in separate
7 cell blocks or housing units from sentenced inmates. In any jail
8 facility with 5 or more floors, pretrial inmates shall be housed on
9 separate floors from sentenced inmates.

10 Sec. 62c. (1) The rules and standards promulgated under
11 section 62(3) ~~shall~~ **DO** not prohibit the housing of 2 or more
12 inmates in a county jail cell ~~which~~ **THAT** is designed and
13 constructed for housing 2 or more inmates ~~—~~ and ~~which~~ **THAT**
14 meets all of the following conditions:

15 (a) The basic cell has at least 52 square feet in area per
16 inmate. This subdivision ~~shall~~ **APPLIES** only ~~apply~~ to cells
17 constructed after January 1, 1988.

18 (b) The cell provides access to a day area ~~which~~ **THAT** is
19 available for use by other than those being disciplined. The day
20 area shall contain at least 20 additional square feet of space per
21 inmate. This subdivision ~~shall~~ **APPLIES** only ~~apply~~ to cells
22 constructed after January 1, 1988.

23 (c) The cell complies with other rules and standards for
24 multiple occupancy housing in jails, as promulgated under section
25 62(3).

26 (2) For purposes of housing inmates as provided ~~for~~ under
27 this section, the sheriff of the county shall develop and implement

1 a classification system classifying the county jail population
2 according to all of the following:

- 3 (a) Behavior characteristics.
- 4 (b) Similar physical characteristics.
- 5 (c) Age.
- 6 (d) Type of crime committed and criminal history.
- 7 (e) Gender.

8 (3) The classification system under subsection (2) shall be
9 submitted to and approved by the department **OF LABOR AND ECONOMIC**
10 **GROWTH.**

11 (4) High security and segregation cells shall not be
12 constructed to house multiple inmates.

13 (5) Cells in which 2 or more inmates are housed shall have
14 doors which allow visual supervision, and inmates shall be under
15 visual supervision at least every hour.