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Senate Bills 195 and 196 (as introduced 3-12-19)  
Sponsor: Senator Stephanie Chang (S.B. 195)  
Senator Peter J. Lucido (S.B. 196)  
Committee: Judiciary and Public Safety

Date Completed: 7-10-20

### **CONTENT**

**Senate Bill 195 would amend the Corrections Code to create the "Family Advisory Board" within the Department of Corrections (DOC) and to do the following:**

- Establish requirements for the membership and operation of the Board.
- Specify the Board's responsibilities, which would include assisting the DOC with the development of family reunification programs.
- Allow the Board to create regional committees or facility-focused family councils.
- Require the Board to report annually to the Legislature.
- Require the DOC to provide necessary staffing to the Board.
- Require the DOC to provide information about the Board on its website and in the waiting rooms of correctional facilities.
- Require the Board to hold meetings in compliance with the Open Meetings Act, but allow the Board to close a meeting to the public for purposes of sharing or discussing confidential or private information regarding a prisoner or his or her family member.

**Senate Bill 196 would amend the Open Meetings Act to allow a public body to meet in a closed session to share or discuss confidential or private information regarding an incarcerated person or his or her family at a meeting of the proposed Family Advisory Board.**

The bills are tie-barred.

### **Senate Bill 195**

#### **Family Advisory Board**

The bill would create the Family Advisory Board within the DOC. The Board would consist of at least 10, but not more than 15, members as described below.

The Board would include the Legislative Corrections Ombudsman and one individual appointed by the Governor who was an employee of the DOC as designated by the Director of the DOC. The Board also would have to include the following members appointed by the Governor based on recommendations submitted to him or her by nonprofit entities serving individuals with family members who were incarcerated:

- Two or three individuals who were families of individuals currently incarcerated in Michigan.
- One to three individuals who were family members of individuals who were formerly incarcerated in Michigan.
- At least one individual who had a parent formerly or currently incarcerated in Michigan.
- One to two individuals who were formerly incarcerated in Michigan.
- One individual who was a social worker who had training and expertise dealing with mental health issues and experience working with formerly or currently incarcerated individuals.
- One individual who was an advocate for or mentor to individuals incarcerated in Michigan.
- One to two individuals nominated by the State Bar of Michigan who had experience working with formerly or currently incarcerated individuals and their family members.

Except for the Legislative Corrections Ombudsman and the DOC employee, members would serve staggered two-year terms. The Legislative Corrections Ombudsman and the DOC employee would serve terms without expiration, except that the DOC employee could serve only as long as he or she was employed by the Department. A vacancy created as a result of that member leaving employment with the DOC would have to be filled in the same manner as the original appointment.

A vacancy on the Board would have to be filled in the same manner as the original appointment. A member appointed to fill a vacancy occurring other than by expiration of a term would have to be appointed for the remainder of the unexpired term.

The first Board meeting would have to be called within 90 days after the bill's effective date. At that meeting, the Board would have to elect from among its members a chairperson and other officers as it considered necessary or appropriate, who would serve one-year terms and who could be reelected. After the first meeting, the Board would have to meet at least quarterly, or more frequently at the call of the chairperson, or if requested by a majority of the members then serving.

A majority of the Board members would constitute a quorum, and a majority of the members present and serving would be required for official Board action.

Board members would have to serve without compensation; however, they could be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.

#### Board Duties & Responsibilities

The Board would have to do all of the following:

- Assist and advise the DOC regarding the development of policies and procedures that would support family reunification during and after incarceration.
- Assist and advise the DOC regarding the development of programs that would support family reunification during and after incarceration.
- Enhance communication between the DOC and families regarding issues that would have an impact on a broad range of incarcerated and formerly incarcerated individuals and their families, including gathering information from individuals in the region and across the State with family member who were or had been incarcerated.
- Identify barriers concerning family reunification during and after incarceration.
- File an annual report with the chairs of the Senate and House of Representatives Committees concerned with the DOC and criminal justice issues regarding its activities under the bill, and file the report by October 1 of each year.

The Department would have to provide any staffing necessary for the Board to fulfill its duties.

The Board could, in its discretion, create regional committees or facility-focused family councils to carry out its duties.

The Department would have to provide information about the Board on its website and in the waiting rooms of correctional facilities, including the Board's contact information for obtaining information and assistance with family-related issues.

#### Open Meetings Act & FOIA

Except as otherwise provided, the Board would have to comply with the Open Meetings Act. The Board could close a meeting to the public for purposes of sharing or discussing confidential or private information regarding a prisoner or his or her family member. If the Board closed a meeting to the public, it would have to reopen the meeting after the sharing or discussion of confidential or private information was completed. The Board would have to close a meeting to the public for purposes of sharing or discussing medical or psychological information about a named prisoner and would have to ensure that the sharing or discussion of the information also complied with any current departmental policies regarding the sharing or discussion of that information. Nothing in the bill would affect the rights provided to a Department employee under the State Civil Service Commission rules or an applicable collective bargaining agreement. "Confidential or private information" would mean information regarding intimidation of or by a names prisoner, formal and documented complaints of unprofessional or criminal behavior by a named Department employee or an individual working under contract with the DOC, medical or psychological information about a named prisoner or a named family member of the prisoner, or any other similar sensitive and private information regarding a specific prisoner that the Board and the DOC reasonably determine should be kept confidential. The term would not include information that currently was available to the public, or that was readily available to the public from another source.

Except as otherwise provided, a writing prepared, owned, used, in the possession of, or retained by the Board in the performance of an official function would be subject to the Freedom of Information Act. A writing described above would not be subject to the Freedom of Information Act if it contained confidential or private information (as defined above).

#### **Senate Bill 196**

Under the Open Meetings Act, all meetings of a public body must be open to the public and held in a place available to the general public. However, the Act allows a public body to meet in a closed session for limited purposes.

The bill would add that a public body could meet in a closed session to share or discuss confidential or private information regarding to an incarcerated person or his or her family at a meeting of the Family Advisory Board, which Senate Bill 195 would create. "Confidential or private information" would mean information regarding intimidation of or by a names prisoner, formal and documented complaints of unprofessional or criminal behavior by a named Department employee or an individual working under contract with the DOC, medical or psychological information about a named prisoner or a named family member of the prisoner, or any other similar sensitive and private information regarding a specific prisoner that the Board and the DOC reasonably determine should be kept confidential. The term would not include information that currently was available to the public, or that was readily available to the public from another source.

Proposed MCL 791.214a (S.B. 195)

Legislative Analyst: Stephen Jackson

**FISCAL IMPACT**

**Senate Bill 195**

The bill would have an indeterminate fiscal impact on the Department of Corrections as the bill would require the Department to create a permanent Family Advisory Board. Board members would not receive a salary; however, they would be eligible for reimbursement for necessary expenses incurred in the performance of their duties. The Department would have to provide any office space, information technology (IT), and staffing necessary for the Board to fulfill its duties. The bill does not specify the number of staff that would be needed; however, any staff costs would be the responsibility of the Department.

The estimated annual cost for the proposed Board is indeterminate but based on the cost of similar commissions, the estimated annual costs for staff, office space, IT, and reimbursement for necessary member expenses ranges from as low as \$7,000 to several hundred thousand. This amount primarily depends on staffing costs. The MDOC has indicated that staffing costs likely would be absorbed within current appropriations.

**Senate Bill 196**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Joe Carrasco