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SFA**BILL ANALYSIS**

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Senate Bill 838 (as introduced 12-30-97)
Sponsor: Senator Loren Bennett
Committee: Judiciary

Date Completed: 2-2-98

CONTENT

The bill would amend the Department of Corrections (DOC) law to revise certain provisions pertaining to the transfer of a prisoner to another state, by deleting a provision requiring a prisoner's consent before he or she is transferred to another state and removing a requirement that a Michigan prisoner in another state receive a hearing within a specified time period.

Public Acts 92 and 93 of 1994, respectively, adopted the Interstate Corrections Compact and amended the DOC law to allow Michigan to enter into an interstate corrections compact to provide adequate programs, on a cooperative basis with other compact states, for the confinement, treatment, and rehabilitation of various types of criminal offenders.

Under the DOC law, as amended by Public Act 93 of 1994, unless a transfer is required to protect a prisoner's personal safety, a prisoner may not be transferred to another state for confinement unless he or she consents to the transfer in writing. The bill would delete that provision.

In addition, the DOC law provides that a prisoner, sentenced under Michigan law, who is imprisoned in another state pursuant to the Interstate Corrections Compact is entitled to all hearings, within 120 days of the time and under the same standards, that are normally accorded to prisoners sentenced and confined in Michigan. The bill would delete that provision and specifies, instead, that a prisoner sentenced in Michigan and confined in another state under the Interstate Corrections Compact would be entitled to hearings pursuant to Article IV of the Compact. A prisoner would not be entitled to a hearing before his or her transfer to another state.

Article IV of the Compact provides that a hearing to which an inmate may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state, without reference to the time period during which a hearing must be held. Under the Compact, the governing law of a hearing is that of the sending state. Officials of the receiving state may act only as agents of the sending state, and no final determination may be made in any matter except by the appropriate officials of the sending state.

MCL 791.211a & 791.256

Legislative Analyst: P. Affholter

FISCAL IMPACT

Senate Bill 838 would result in indeterminate costs to the State and would have no fiscal impact on local government.

To the extent that the proposed legislation would allow the Department of Corrections to incarcerate

prisoners out-of-state without their written consent, the DOC could potentially send more prisoners out-of-state. Although out-of-state incarceration appears to cost more than in-state incarceration, this is an indirect cost of the proposed legislation that may be applicable only in times of overcapacity.

The Interstate Corrections Compact, in subsection 6 of Article IV says that any hearing to which an inmate may be entitled under the laws of the state sending the prisoner to confinement in another state may be carried out by officials of the sending or receiving state according to the choices of the sending state. For example, prisoners may be entitled to parole or misconduct hearings during out-of-state incarceration. Any hearing would be carried out according to the laws of the sending state. The Compact does not specify whether the sending or receiving state is responsible for costs incurred in providing these hearings. Thus, there is no indication that the State would incur costs over and above the costs implied in the existing language.

Fiscal Analyst: K. Firestone

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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.