

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6305
BILL NUMBER: SB 105

DATE PREPARED: Nov 16, 1998
BILL AMENDED:

SUBJECT: Misdemeanant transfer from correctional facilities.

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FUNDS AFFECTED: **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill provides that whenever state correctional facilities are filled to capacity with felons: (1) a county may not commit a misdemeanor to a state correctional facility; (2) a county may not receive a per diem for a misdemeanor committed to the county jail or another local sentencing option because a state correctional facility is unavailable; (3) a misdemeanor confined by a state correctional facility may be returned for confinement by the county that committed the misdemeanor to the state correctional facility; and (4) a county will be charged a per diem for each misdemeanor transferred to a state correctional facility or rejected by the county for transfer back to the county correctional facility after the county has received notice of the unavailability of space in state correctional facilities. It also allows a county to transfer misdemeanants and receive per diem when the county receives notice that space is available in the state correctional facility.

Effective Date: July 1, 1999.

Explanation of State Expenditures: This bill may reduce per diem expenditures by the Department of Correction (DOC) for misdemeanants sentenced to DOC facilities, but residing in county jails while awaiting placement (typically due to a lack of immediately available bed space).

This bill provides that the Commissioner of the Department of Correction may, on review of the DOC facility population, refuse to house misdemeanants sentenced to DOC facilities. Under this provision, the DOC: (1) would not pay the \$35 per diem to county jails for misdemeanants sentenced to DOC, but awaiting placement in county jails; and (2) would require that the \$35 per diem be paid by counties that refuse to accept return of misdemeanants residing in DOC facilities. As of November 16, 1998, there were 184 misdemeanants in the DOC system.

The DOC Commissioner may impose a moratorium on misdemeanants if all available capacity in DOC facilities is needed for felons. Experience indicates that many DOC facilities operate at or above population

capacity.

Explanation of State Revenues: Counties would pay DOC a per diem of \$35 for each misdemeanor housed in a DOC facility under provision (4) of this bill.

Explanation of Local Expenditures: When it is determined that there is no bed space in DOC facilities, county jails would be required to both retain misdemeanants sentenced to the DOC, receive back those housed in DOC facilities or pay \$35 per diem for those who remain. Counties that have historically placed numerous offenders in DOC facilities will be most affected by this bill. For example, a survey in FY 97 showed that Elkhart and Madison counties accounted for 72% of the misdemeanants committed to DOC.

Explanation of Local Revenues:

State Agencies Affected: Department of Correction.

Local Agencies Affected: County jails.

Information Sources: Planning Division, Department of Correction.