



Levine: Private prison bill has many flaws

Questions include cost savings, accountability

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To reduce the \$2 billion budget of the Department of Corrections, the Legislature is considering whether to allow prisons operated by private contractors. Michigan's only private prison was the Michigan Youth Correctional Facility in Baldwin. It opened in 1998 but closed in 2005 because its costs were too high. GEO Corp., the owner of the Baldwin facility, has expanded it from 480 beds to roughly 2,400 — all apparently on speculation. GEO hoped to house prisoners from California, but that contract fell through.

Prison contractors say they can incarcerate people as effectively as government for substantially less money.

Opponents say that incarceration is a governmental function that should not be delegated to an industry responsible primarily to stockholders. They question whether private prisons actually save money, since contractors “cherry pick” the least expensive prisoners, leaving the state to pay for those with medical problems or mental illness and those at higher security levels. Opponents also question whether private prisons cut corners on security, safety, living conditions and programming.

House Bill 5174 would let the state contract with any private provider for the housing and management of Michigan inmates “if the contract will result in an annual cost savings of at least 10 percent.” The bill presents multiple issues.

HB 5174 doesn't specify the basis for calculating the 10 percent savings. Per diem costs vary greatly by security level. While a Level I prisoner can be housed for a low of \$60 per day, high security prisoners cost a great deal more. The average for all prisoners is more than \$90 per day.

If it costs a private contractor \$56 per day to house a Level I prisoner, it could not save 10 percent of the MDOC's costs for the same prisoner. But if it only must save 10 percent of the average cost for all prisoners, it could charge \$81 and make an enormous profit.

Second, the bill prohibits placing at a private facility any prisoner who has ever been housed above Level IV. This insulates the contractor from the prisoners with the most potential behavioral problems, many of whom are mentally ill.

Third, the bill does not allow the same public oversight of private contractors that applies to the MDOC. The public could not obtain information about prison operations under the Freedom of Information Act. The Legislative Corrections Ombudsman would have no access to a private facility.

Fourth, the bill states that the MDOC is not responsible for oversight of the private facility and the state is not liable for damages arising out of the facility's operation.

The state could turn a blind eye to abuses at a private prison it chose and be free of liability for any resulting harm to the prisoners it failed to protect.

The actual cost and operation of any private prison would depend on the terms of the contract and the state's commitment to enforcing them. However the terms of HB 5174 suggest that serious questions about cost savings, transparency and accountability would be present from the start.