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Deanna Ballman
Operator's Signature

10/2/03
Date

2003 HOUSE JUDICIARY

HB 1188

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1188

House Judiciary Committee

Conference Committee

Hearing Date 1-28-03

Tape Number	Side A	Side B	Meter #
1	x		25-38

Committee Clerk Signature *D. Penrose*

Minutes: 13 members present.

Chairman DeKrey: We will open the hearing on HB 1188.

Rep. Grosz: (see attached testimony) Support. It is not my intent to grow government by over \$30 million as indicated on the fiscal note, but it is my intent to provide the vehicle to discuss the answer to this situation.

Chairman DeKrey: We've heard testimony in this committee over and over, when we raise penalties that it doesn't happen anyway because judges won't do it? Was any of that taken into consideration.

Rep. Grosz: I will dig into that deeper. I am more of an expert in taxation policy than sentencing policy.

Rep. Eckre: I know Texas is written up quite a bit, they have tough sentences, but have a revolving door, you're sentenced but let out early to make room for the new convicts. We don't have enough room in the prisons.

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House Judiciary Committee
Bill/Resolution Number HB 1188
Hearing Date 1-28-03

Rep. Grosz: You are correct, you probably have better answers than I do.

Rep. Bernstein: The fiscal note baffles me, is this the extra time in prison will cost up to \$30 million? What's the purpose behind that.

Chairman DeKrey: I think Dave Krabbenhof can answer that question.

Rep. Delmore: It sounds like you have one person who wanted you to work with. Did you do any research to find out whether others were in the need of the change.

Rep. Grosz: I did ask a couple of law officers from other areas about this bill, and they were shocked at the outcome of it.

Chairman DeKrey: Thank you. Anyone wishing to testify in support? Anyone wishing to testify in opposition?

Dave Krabbenhof, DOCR: I will hand out the fiscal note that goes through that. (see testimony on the fiscal effect). We don't have additional beds at this time. We are at full capacity now.

Rep. Delmore: How much money is spent on each inmate in the penitentiary now?

Mr. Krabbenhof: I don't know, approx. cost per inmate is \$30,000/yr.

Rep. Kretschmar: Do you have any numbers of how many cases where there's a conviction of a felony, that the court imposed the maximum prison sentence.

Mr. Krabbenhof: I don't have it right now, but we can get it to you.

Rep. Klein: How do you use 50 mo. instead of 240 mo. for the maximum sentence, 1/5 of the possible maximum, so if we increased that to 30 years, 360 months, what's the basis for assuming that the average sentence will increase proportionally.

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House Judiciary Committee
Bill/Resolution Number HB 1188
Hearing Date 1-28-03

Mr. Krabbenhof: I guess the basis for taking 50 % is that we had to choose a number, but it was influenced by what's happened to the department over the last 10 years, we've seen changes in the law. So this fiscal note is intended to say that there would be a potential impact on this bill.

Rep. Klein: I guess for all practical purposes, whether the maximum is 20 years or 30 years, in reality the sentence could be 50 months.

Mr. Krabbenhof: That's true.

Rep. Eckre: I think this fiscal note is fairly conservative.

Chairman DeKrey: Thank you. Anyone else wishing to testify on HB 1188. We will close the hearing.

(The meeting was reopened later in the same session)

Chairman DeKrey: What are the committee's wishes in regard to HB 1188.

Rep. Wrangham: I move a do not pass.

Rep. Maragos: Seconded.

13 YES 0 NO 0 ABSENT

DO NOT PASS

CARRIER: Rep. Bernstein

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Deanna G. [Signature]
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1/28/03
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FISCAL NOTE
 Requested by Legislative Council
 01/21/2003

Bill/Resolution No.: HB 1188

1A. **State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$7,181,850		\$30,326,380	
Appropriations			\$7,181,850		\$30,326,380	

1B. **County, city, and school district fiscal effect:** Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

House bill 1188 proposes to change the maximum sentence for a felony A from 20 to 30 years, for a felony B from 10 to 20 years, and for a felony C from 5 to 10 years. In preparing this fiscal note it is assumed that the number of people convicted of a felony and sentenced to the DOCR would remain constant with current levels. It is also assumed that the percent of sentence served by an inmate would also remain constant with today's levels (currently 68.4%). It is assumed that the average sentence imposed by the court currently would increase in proportion to the percent increase in maximum sentence proposed by HB 1188. For a felony A the current average sentence is 50 months, under HB 1188 the average sentence is estimated to increase to 75 months. For a felony B the current average sentence is 31 months, under HB 1188 the average sentence is estimated to increase to 62 months. For a felony C the current average sentence is 22 months, under HB 1188 the average sentence is estimated to increase to 44 months.

3. **State fiscal effect detail:** For information shown under state fiscal effect in 1A, please:

A. **Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

No fiscal effect on revenues

B. **Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

The effect of increasing the maximum sentences of felony convictions is longer prison stays. Longer prison stays equate to a greater need for additional prison beds. Due to the fact the DOCR is and expects to continue to be operating at full capacity, it is assumed that the need for additional prison beds created by this bill will be beds that are not in the DOCR system. This fiscal note computed the additional number of prison days felons would be in the custody of the DOCR. That number was multiplied by \$50, which is a conservative estimate of the daily cost to house an inmate for one day outside of the DOCR system. The resulting figures are reflected above and represent the amount of contract housing dollars that must be added to the DOCR appropriation in order to implement HB1188.

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C. Appropriations: Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

The amounts reflected above are the estimated amounts needed in order to contract for additional bed space that would be anticipated with the adoption of HB1188.

Name:	Dave Krabbenhoft	Agency:	DOCR
Phone Number:	328-6135	Date Prepared:	01/24/2003

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Dave Krabbenhoft
Operator's Signature

1/24/03
Date

Date: 1/28/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1188

House Judiciary Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Not Pass

Motion Made By Rep. Wrangham Seconded By Rep. Maragos

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	/		Rep. Delmore	/	
Vice Chairman Maragos	/		Rep. Eckre	/	
Rep. Bernstein	/		Rep. Onstad	/	
Rep. Boehning	/				
Rep. Galvin	/				
Rep. Grande	/				
Rep. Kingsbury	/				
Rep. Klemin	/				
Rep. Kretschmar	/				
Rep. Wrangham	/				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep. Bernstein

If the vote is on an amendment, briefly indicate intent:

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Deanna G. Ball 1/28/03
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)
January 28, 2003 11:49 a.m.

Module No: HR-16-1183
Carrier: Bernstein
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1188: Judiciary Committee (Rep. DeKrey, Chairman) recommends DO NOT PASS
(13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1188 was placed on the
Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-16-1183

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1/2/03
Date

2003 TESTIMONY

HB 1188

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10/2/03
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House Bill 1188
Testimony provided by Rep. Mike Grosz
January 28, 2003

Thank you Mister Chairman. My name is Rep. Mike Grosz from District 42, representing the northwest portion of Grand Forks.

I introduced House Bill 1188 on behalf of a constituent, in order to look at maximum sentences. I will use his words to describe the intent of this bill:

The concern I have with these classifications is that negligent homicide is only a class C felony and that manslaughter is only a class B felony. Because it is so difficult to prove criminal intent cases that may be tried for murder may be reduced to manslaughter or even negligent homicide. Thus a criminal defendant, who kills someone, may end up only spending five years or less in prison for the offense. Thus was a case in Grand Forks a few years ago in which an adult male threw a four-year-old child down a stairs who died. The male was convicted of negligent homicide because the States Attorney could not prove the act was intentional as required for a murder conviction. Thus the suspect spent five years, or probably less, with time off for good behavior, etc for taking the life of a child. I suggest that to provide our judges the capability to provide longer sentences for people that kill other people that the classifications for A felonies, such as murder, be raised to thirty years, B felonies, such as manslaughter, be raised to twenty years, and C felonies, such as negligent homicide, to ten years. Judges will not have to sentence people for the maximum for these felonies but this change in the law would give them more discretion in sentencing. Five years imprisonment or less is not sufficient punishment for taking the life of a child.

Mister Chairman, it is not my intent to grow government by over \$30 million, but it is my intent to provide the fine members of the Judiciary committee with a vehicle to discuss the answer to this problem.

Thank you Mister Chairman, and I would be happy to answer any questions you may have.

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**House Bill 1188
Determination of Fiscal Effect**

Assumptions:

1. Number of individuals convicted and sentenced to the custody of DOCR will remain constant with current levels
2. The percent of sentence served by an inmate will remain constant with current level (currently 68.4%)
3. Average sentence imposed by the court will increase in proportion to the increase in maximum sentence proposed by HB 1188
 Felony A - 50 months to 75 months
 Felony B - 31 months to 62 months
 Felony C - 22 months to 44 months

	Felony A	Felony B	Felony C
No. of Inmates Admitted in 2002	116	91	494
Average Sentence (months)	50	31	22
Average % of Sentence Served at Release	0.684	0.684	0.684
Average Served at Release	34	21	15
Est. Increase in Average Sent. (months)	25	31	22
Average % Served	0.684	0.684	0.684
Average Inc. in Sentence Served	17	21	15

Additional Months Served by Classification	2003-05		2005-07		Total
	FY04	FY05	FY06	FY07	
Felony A					
Est. FY04 Admissions - 116	0	0	2	12	14
Est. FY05 Admissions - 116	n/a	0	0	2	2
Est. FY06 Admissions - 116	n/a	n/a	0	0	0
Est. FY07 Admissions - 116	n/a	n/a	n/a	0	0
Total Felony A	0	0	2	14	16
Felony B					
Est. FY04 Admissions - 91	0	3	12	6	21
Est. FY05 Admissions - 91	n/a	0	3	12	15
Est. FY06 Admissions - 91	n/a	n/a	0	3	3
Est. FY07 Admissions - 91	n/a	n/a	n/a	0	0
Total Felony B	0	3	15	21	39
Felony C					
Est. FY04 Admissions - 494	0	9	6	0	15
Est. FY05 Admissions - 494	n/a	0	9	6	15
Est. FY06 Admissions - 494	n/a	n/a	0	9	9
Est. FY07 Admissions - 494	n/a	n/a	n/a	0	0
Total Felony C	0	9	15	15	39

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Additional Cost by Classification	2003-05		2005-07		Total
	FY04	FY05	FY06	FY07	
Felony A					
Est. FY04 Admissions - 116	\$ -	\$ -	\$ 352,640	\$ 2,115,840	\$ 2,468,480
Est. FY05 Admissions - 116	n/a	\$ -	\$ -	\$ 353,800	\$ 353,800
Est. FY06 Admissions - 116	n/a	n/a	\$ -	\$ -	\$ -
Est. FY07 Admissions - 116	n/a	n/a	n/a	\$ -	\$ -
Total Felony A	\$ -	\$ -	\$ 352,640	\$ 2,469,640	\$ 2,822,280
Felony B					
Est. FY04 Admissions - 91	\$ -	\$ 414,050	\$ 1,660,750	\$ 828,100	\$ 2,902,900
Est. FY05 Admissions - 91	n/a	\$ -	\$ 414,050	\$ 1,660,750	\$ 2,074,800
Est. FY06 Admissions - 91	n/a	n/a	\$ -	\$ 414,050	\$ 414,050
Est. FY07 Admissions - 91	n/a	n/a	n/a	\$ -	\$ -
Total Felony B	\$ -	\$ 414,050	\$ 2,074,800	\$ 2,902,900	\$ 5,391,750
Felony C					
Est. FY04 Admissions - 494	\$ -	\$ 6,767,800	\$ 4,495,400	\$ -	\$ 11,263,200
Est. FY05 Admissions - 494	n/a	\$ -	\$ 6,767,800	\$ 4,495,400	\$ 11,263,200
Est. FY06 Admissions - 494	n/a	n/a	\$ -	\$ 6,767,800	\$ 6,767,800
Est. FY07 Admissions - 494	n/a	n/a	n/a	\$ -	\$ -
Total Felony C	\$ -	\$ 6,767,800	\$ 11,263,200	\$ 11,263,200	\$ 29,294,200
Total Estimated Costs					
	2003 - 2005 \$ 7,181,850				
	2005 - 2007 \$ 30,326,380				

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