

REPORT TO THE LEGISLATURE
Pursuant to P.A. 63 of 2011
Section 417 (1)(a)
County Jail Reimbursement Program

Sec. 417. (1) By March 1, the department shall report to the members of the senate and house appropriations subcommittees on corrections, the senate and house fiscal agencies, and the state budget director on each of the following programs from the previous fiscal year:

- (a) The county jail reimbursement program.
- (b) The felony drunk driver jail reduction and community treatment program.
- (c) Any new initiatives to control prison population growth funded or proposed to be funded under part 1.

(2) For each program listed under subsection (1), the report shall include information on each of the following:

- (a) Program objectives and outcome measures, including, but not limited to, the number of offenders who successfully completed the program, and the number of offenders who successfully remained in the community during the 3 years following termination from the program.
- (b) Expenditures by location.
- (c) The impact on jail utilization.
- (d) The impact on prison admissions.
- (e) Other information relevant to an evaluation of the program.

The County Jail Reimbursement Program was established as an incentive for counties to retain locally those felons who otherwise probably would have been sent to prison. It was instituted under language in the FY 1988-89 budget act, and has been maintained through budget acts every year since then. FY 2009-10 was an anomaly: the program existed briefly in October 2009 under the terms of a continuation budget, and, following a veto of the version that was in the FY 2009-10 budget act, was subsequently enacted through a June 2010 supplemental appropriations act (2010 PA 89), which provided for the program from January through September 2010.

In 1998, the County Jail Reimbursement Program was placed in statute as part of an extensive package of criminal justice reforms that included sentencing guidelines and truth-in-sentencing. Public Act 317 of 1998 amended the Code of Criminal Procedure to add a section (MCL 769.35) that calls for the Department of Corrections (MDOC) to operate a jail reimbursement program that “provides funding to counties for housing offenders in county jails who otherwise would have been sentenced to prison.” The act specifies that reimbursement criteria and rates are to be set in the annual appropriations acts for MDOC.

In the years since the program began, changes to reimbursement criteria and rates have been common, reflecting continuing efforts to draft a reimbursement framework that would offer appropriate incentives diverting into jail sentences offenders who otherwise would have received prison sentences. After enactment of comprehensive felony sentencing guidelines, criteria increasingly described reimbursement-eligible offenders in terms of their scores and classification under sentencing guidelines.

For Fiscal Year 2010-11, counties selected one of two alternative sets of reimbursement rates and criteria. “Option A” offered the eligibility criteria and per diem rates that had been effect in FY 2008-09. The reimbursement rate was \$43.50 per day for felons sentenced for crimes committed on or after January 1, 1999 (the effective date of sentencing guidelines) who met one of the following eligibility criteria:

- (a) The felon’s sentencing guidelines recommended range upper limit was more than 18 months, the felon’s sentencing guidelines recommended range lower limit was 12 months or less, the felon’s prior record variable score was 35 or more points, and the felon’s sentence was not for commission of a crime in crime class G or crime class H under chapter XVII of the code of criminal procedure, 1927 PA 175, MCL 777.1 to 777.69. This describes a “straddle cell” offender (one who may be sentenced either to prison or to a local sanction) with a prior record variable score of at least 35, and a conviction that was not for a crime in one of the two least serious crime classes.
- (b) The felon’s minimum sentencing guidelines range minimum is more than 12 months under the sentencing guidelines. This describes a “presumptive prison” offender who must be sentenced to prison unless the sentencing judge departs from the guidelines for “substantial and compelling” reasons.

“Option B” offered the eligibility criteria and rates that were in place for the partial-year program that was enacted in June 2010 for January through September 2010. Option B reimbursed for felons sentenced for crimes committed on or after January 1, 1999, and who met one of the following criteria:

- (a) The felon’s sentencing guidelines recommended range upper limit was more than 18 months, the felon’s sentencing guidelines recommended range lower limit was 12 months or less, the felon’s prior record variable score was 35 or more points, and the felon’s sentence was not for commission of a crime in crime class G or crime class H or a “nonperson” crime in crime class F under chapter XVII of the code of criminal procedure, 1927 PA 175, MCL 777.1 to 777.69.
- (b) The felon’s minimum sentencing guidelines range minimum was more than 12 months.
- (c) The felon was sentenced to jail for a felony committed while he or she was on parole and under the jurisdiction of the parole board and for which the sentencing guidelines recommended range for the minimum sentence has an upper limit of more than 18 months. This describes a parolee whose guidelines score on the new felony places him or her in either the straddle cell or presumptive prison category.

Option B included a three-tier reimbursement rate structure. If the offender’s guidelines score indicated a prison sentence, the rate was \$60.00 per day. If the guidelines score was such that either a prison sentence or a local sanction was allowed (a guidelines “straddle cell”), the reimbursement rate was \$50.00 per day if the crime was on a list of designated “group 1” crimes, and \$35 per day if the offense was not on the “group 1” list.

Table 1 provides data on FY 2009-10 County Jail Reimbursement Program payments and numbers of offenders by county and per diem rate.

The extent to which the program has affected jail utilization or prison commitments is unclear, because the extent to which judicial sentencing decisions are affected by an offender's eligibility is unclear. On the one hand, programs funded under the Community Corrections Act (1988 PA 511) often target straddle cell offenders with prior record scores of 35 or more. However, the elimination of the program from October 2009 to June 2009 did not appear to appreciably affect prison commitment rates. Conclusions about the program's impact on jail utilization or prison admissions are rendered problematic by the complexity of the criminal justice system and the difficulty in isolating the impact of the CJRP from the many other factors that affect sentencing decisions.

Table 1: FY 2010-11 County Jail Reimbursement Program Payments

	Option	\$43.50 Per Diem		\$35 Per Diem		\$50 Per Diem		\$60 Per Diem		TOTALS	
		Inmates	Payment	Inmates	Payment	Inmates	Payment	Inmates	Payment	Inmates	Payment
Alcona	A	2	\$8,743.50							2	\$8,743.50
Alger	B									0	\$0.00
Allegan	A	37	\$127,890.00							37	\$127,890.00
Alpena	A									0	\$0.00
Antrim	B			1	\$3,500.00					1	\$3,500.00
Arenac	B									0	\$0.00
Baraga	B									0	\$0.00
Barry	A	28	\$84,303.00							28	\$84,303.00
Bay	B			17	\$56,350.00	7	\$17,100.00	3	\$30,120.00	27	\$103,570.00
Benzie	A									0	\$0.00
Berrien	B			23	\$60,970.00	15	\$42,150.00	2	\$17,460.00	40	\$120,580.00
Branch	A									0	\$0.00
Calhoun	A	88	\$425,952.00							88	\$425,952.00
Cass	B			27	\$118,790.00	3	\$17,000.00	10	\$52,560.00	40	\$188,350.00
Charlevoix	A									0	\$0.00
Cheboygan	A	8	\$34,104.00							8	\$34,104.00
Chippewa	A	11	\$45,849.00							11	\$45,849.00
Clare	A	14	\$73,080.00							14	\$73,080.00
Clinton	B					1	\$8,100.00	1	\$5,520.00	2	\$13,620.00
Crawford	A	4	\$16,834.50							4	\$16,834.50
Delta	A	3	\$20,097.00							3	\$20,097.00
Dickinson	A	7	\$34,452.00							7	\$34,452.00
Eaton	B			24	\$66,570.00	18	\$99,950.00	34	\$166,920.00	76	\$333,440.00
Emmet	A	1	\$3,219.00							1	\$3,219.00
Genesee	A	59	\$228,897.00							59	\$228,897.00
Gladwin	A	13	\$89,871.00							13	\$89,871.00
Gogebic	A	5	\$11,962.50							5	\$11,962.50
Grand Traverse	A									0	\$0.00
Gratiot	A	6	\$31,146.00							6	\$31,146.00
Hillsdale	A									0	\$0.00
Houghton	A	12	\$78,387.00							12	\$78,387.00
Huron	A	9	\$39,628.50							9	\$39,628.50
Ingham	A	76	\$240,990.00							76	\$240,990.00
Ionia	A	2	\$8,743.50							2	\$8,743.50
Iosco	B			2	\$4,130.00	3	\$32,450.00			5	\$36,580.00
Iron	A									0	\$0.00
Isabella	A	33	\$125,062.50							33	\$125,062.50
Jackson	A	41	\$130,413.00							41	\$130,413.00
Kalamazoo	A	104	\$316,854.00							104	\$316,854.00
Kalkaska	B			11	\$46,620.00					11	\$46,620.00
Kent	A	208	\$835,330.50							208	\$835,330.50
Keweenaw	B							3	\$21,480.00	3	\$21,480.00
Lake	B			3	\$10,850.00			1	\$2,640.00	4	\$13,490.00
Lapeer	A	37	\$158,644.50							37	\$158,644.50
Leelanau	A									0	\$0.00
Lenawee	A	5	\$14,572.50							5	\$14,572.50
Livingston	B			33	\$104,825.00	8	\$26,600.00	5	\$29,580.00	46	\$161,005.00
Luce	A									0	\$0.00
Mackinac	A	3	\$11,919.00							3	\$11,919.00
Macomb	A	319	\$1,178,980.50							319	\$1,178,980.50
Manistee	A									0	\$0.00
Marquette	A	12	\$57,681.00							12	\$57,681.00
Mason	A	9	\$47,937.00							9	\$47,937.00
Mecosta	B			7	\$23,660.00	4	\$30,200.00	3	\$16,440.00	14	\$70,300.00
Menominee	B			1	\$10,465.00					1	\$10,465.00
Midland	A	18	\$82,302.00							18	\$82,302.00

Missaukee	A	3	\$13,615.50					3	\$13,615.50
Monroe	A	38	\$128,412.00					38	\$128,412.00
Montcalm	A	3	\$20,097.00					3	\$20,097.00
Montmorency	A	3	\$25,186.50					3	\$25,186.50
Muskegon	A	77	\$258,825.00					77	\$258,825.00
Newaygo	B			4	\$19,285.00	2	\$13,150.00	6	\$32,435.00
Oakland	A	479	\$2,066,467.50					479	\$2,066,467.50
Oceana	B			6	\$25,410.00	2	\$19,400.00	1	\$5,400.00
Ogemaw	A	17	\$54,636.00					9	\$50,210.00
Ontonagon	A	1	\$10,222.50					17	\$54,636.00
Osceola	A	5	\$24,055.50					1	\$10,222.50
Oscoda	A							5	\$24,055.50
Otsego	B			2	\$11,340.00			0	\$0.00
Ottawa	A	55	\$212,236.50					2	\$11,340.00
Presque Isle	A	6	\$25,752.00					55	\$212,236.50
Roscommon	A	6	\$26,100.00					6	\$25,752.00
Saginaw	B			79	\$294,525.00	69	\$254,150.00	6	\$26,100.00
St. Clair	A	91	\$409,204.50					18	\$76,740.00
St. Joseph	A	30	\$95,047.50					166	\$625,415.00
Sanilac	A	6	\$19,618.50					91	\$409,204.50
Schoolcraft	A	8	\$30,232.50					30	\$95,047.50
Shiawassee	A	10	\$44,109.00					6	\$19,618.50
Tuscola	A	22	\$90,262.50					8	\$30,232.50
Van Buren	A	19	\$54,853.50					10	\$44,109.00
Washtenaw	B			35	\$141,540.00	24	\$123,450.00	22	\$90,262.50
Wayne	A	756	\$2,666,506.50					3	\$24,060.00
Wexford	A	2	\$13,833.00					62	\$289,050.00
		2,811	\$10,853,119.50	275	\$998,830	156	\$683,700.00	84	\$448,920.00
								3,326	\$12,984,569.50