

Title: Decarceration During an Infectious Disease Pandemic

Introduced by: Sanjay Das, for the Medical Student Section

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Referred To: Reference Committee B

House Action: **DISAPPROVED**

Whereas, the United States has the highest incarceration rate in the world, with nearly 700 prisoners per 100,000 people and Michigan has an incarceration rate of 641 per 100,000 people, including prisons, jails, immigration detention, and juvenile justice facilities, and

Whereas, the 2018 Bureau of Justice Statistics estimates that of the number of people incarcerated in local jails per 100,000 people in each racial or ethnic category, incarceration rates are much higher in Black individuals (592) compared to other racial/ethnic categories: American Indian (401), White (187), Hispanic (182), Other (50), and Asian (26), and

Whereas, the 2017 Bureau of Justice Statistics estimates that the pretrial jail population has disproportionately affected Black and Hispanic populations and nearly doubled in the past 15 years, and

Whereas, as of December 2020, confirmed case rates of COVID-19 in United States prisons were 3.7 times higher than the national confirmed case rate, and case fatality rate was double what was expected given the age, gender, and race/ethnicity of the prison population, and

Whereas, 61 percent of Michigan's prison population has tested positive for COVID-19, while only 6.2 percent of Michigan's general population has tested positive for COVID-19, and

Whereas, inmates are discouraged from reporting symptoms due to penal measures aimed at limiting spread of infectious agents, thus contributing to further spread of infectious agents, and

Whereas, high rates of preexisting health conditions and limited access to quality health care exacerbate the impact of COVID-19 in incarceration systems, and inability to social distance due to crowding in prisons prevents compliance with infection prevention protocols, and

Whereas, as of May 1, 2020, Michigan prisons were operating at 94 percent capacity, making it difficult for safety protocols to be followed, and

Whereas, a 2020 report from a consensus panel of the National Academy of Sciences, Engineering, and Medicine recognized that reducing the size of the incarcerated population could

48 help increase the penetration and effectiveness of standard prevention measures in jails and  
49 prisons, such as testing, quarantining, and medical isolation for those who remain, and

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51 Whereas, decarceration is not associated with an increase in crime, as the states of New  
52 York and Connecticut have cut their overall prison and jail populations in half since reaching their  
53 peak population levels, and have since had crime rates below the national average, and

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55 Whereas, nearly every major city in the United States which decreased jail population in  
56 response to COVID-19 experienced no subsequent increase in crime, and

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58 Whereas, individuals older than 55 years are at low risk of reincarceration and are at high  
59 risk of severe complications and mortality due to COVID-19, and

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61 Whereas, rates of incarceration have decreased approximately 11 percent as a result of  
62 restricted admission and expedited release of pre-trial detainees to reduce overall prison capacity  
63 in coordinated efforts to curb impact of COVID-19 on prison health systems, and

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65 Whereas, compassionate release, a legal provision that allows people with terminal illnesses  
66 to be released before their sentences have been served, could be a lever for protecting many high-  
67 risk patients from harm, as clinicians can assist by providing medical attestations to the release of  
68 individual patients during COVID-19 and future pandemics, and

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70 Whereas, as recommended by the American Bar Association, directive MCL-801.51a allowed  
71 the compassionate release of inmates in Michigan county jails; therefore be it

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73 RESOLVED: That MSMS support reducing the incarcerated population during an infectious  
74 disease pandemic by way of restricted admission of pre-trial detainees, expedited release of pre-  
75 trial detainees, and compassionate release of individuals at low risk of reincarceration.

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78 WAYS AND MEANS COMMITTEE FISCAL NOTE: Resolutions only requesting new or revised MSMS  
79 or AMA policy - \$500

**Relevant MSMS Policy:**

None

**Relevant AMA Policy:**

**Compassionate Release for Incarcerated Patients H-430.980**

Our AMA supports policies that facilitate compassionate release for incarcerated patients on the basis of serious medical conditions and advanced age; will collaborate with appropriate stakeholders to develop clear, evidence-based eligibility criteria for timely compassionate release; and promote transparent reporting of compassionate release statistics, including numbers and demographics of applicants, approvals, denials, and revocations, and justifications for decisions.

**Support Public Health Approaches for the Prevention and Management of Contagious Diseases in Correctional and Detention Facilities H-430.979**

1. Our AMA, in collaboration with state and national medical specialty societies and other relevant stakeholders, will advocate for the improvement of conditions of incarceration in all correctional and

immigrant detention facilities to allow for the implementation of evidence-based COVID-19 infection prevention and control guidance.

2. Our AMA will advocate for adequate access to personal protective equipment and SARS-CoV-2 testing kits, sanitizing and disinfecting equipment for correctional and detention facilities.
3. Our AMA will advocate for humane and safe quarantine protocols for individuals who are incarcerated or detained that test positive for or are exposed to SARS-CoV-2, or other contagious respiratory pathogens.
4. Our AMA supports expanded data reporting, to include testing rates and demographic breakdown for SARS-CoV-2 and other contagious infectious disease cases and deaths in correctional and detention facilities.
5. Our AMA recognizes that detention center and correctional workers, incarcerated persons, and detained immigrants are at high-risk for COVID-19 infection and therefore should be prioritized in receiving access to safe, effective COVID-19 vaccine in the initial phases of distribution, and that this policy will be shared with the Advisory Committee on Immunization Practices for consideration in making their final recommendations on COVID-19 vaccine allocation.

### **Health Care While Incarcerated H-430.986**

1. Our AMA advocates for adequate payment to health care providers, including primary care and mental health, and addiction treatment professionals, to encourage improved access to comprehensive physical and behavioral health care services to juveniles and adults throughout the incarceration process from intake to re-entry into the community.
2. Our AMA supports partnerships and information sharing between correctional systems, community health systems and state insurance programs to provide access to a continuum of health care services for juveniles and adults in the correctional system.
3. Our AMA encourages state Medicaid agencies to accept and process Medicaid applications from juveniles and adults who are incarcerated.
4. That our AMA encourage state Medicaid agencies to work with their local departments of corrections, prisons, and jails to assist incarcerated juveniles and adults who may not have been enrolled in Medicaid at the time of their incarceration to apply and receive an eligibility determination for Medicaid.
5. Our AMA encourages states to suspend rather than terminate Medicaid eligibility of juveniles and adults upon intake into the criminal justice system and throughout the incarceration process, and to reinstate coverage when the individual transitions back into the community.
6. Our AMA urges Congress, the Centers for Medicare & Medicaid Services (CMS), and state Medicaid agencies to provide Medicaid coverage for health care, care coordination activities and linkages to care delivered to patients up to 30 days before the anticipated release from adult and juvenile correctional facilities in order to help establish coverage effective upon release, assist with transition to care in the community, and help reduce recidivism.
7. Our AMA advocates for necessary programs and staff training to address the distinctive health care needs of incarcerated women and adolescent females, including gynecological care and obstetrics care for pregnant and postpartum women.
8. Our AMA will collaborate with state medical societies and federal regulators to emphasize the importance of hygiene and health literacy information sessions for both inmates and staff in correctional facilities.
9. Our AMA supports: (a) linkage of those incarcerated to community clinics upon release in order to accelerate access to comprehensive health care, including mental health and substance abuse disorder services, and improve health outcomes among this vulnerable patient population, as well as adequate funding; and (b) the collaboration of correctional health workers and community health care providers for those transitioning from a correctional institution to the community.

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