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BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

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Senate Bill 277 (as passed by the Senate)

Sponsor: Senator Robert Geake

Committee: Judiciary

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RATIONALE

It has been suggested that the penalties for controlled substance offenses should be strengthened. Under the controlled substances Act, the penalty for the unauthorized manufacture or delivery of certain Schedule 1 or 2 drugs, or the prescription of such drugs by a licensed practitioner for illegitimate purposes, depends upon the quantity involved. (The drugs in question include opium, cocaine, heroin, other opiates and opium derivatives, and hallucinogens.) For an amount of 50 grams or more but less than 225 grams, imprisonment is mandatory unless the offender is put on lifetime probation, and imprisonment is permitted but not required for an amount under 50 grams. Reportedly, many drug dealers avoid imprisonment by selling only a small quantity to a buyer upon the initial contact with that buyer, in case he or she turns out to be an undercover narcotics officer. Thus, many believe that the law should be amended to mandate imprisonment for even small quantities of illegal drugs, as well as to remove the option of lifetime probation for large quantities.

sentence and eliminate the probation option for sentencing judges, while the bill would impose a mandatory minimum sentence or allow lifetime probation for less than 50 grams. During 1985 there were 1,687 court dispositions for the controlled substance offenses that would be affected by this bill, of which only 405 (24%) resulted in a prison sentence. The remaining 1,282 dispositions resulted in probation (64%), jail (6%), and other (6%). Eliminating the use of probation, jail and other sentencing options would have increased new prison commitments in 1985 by 1,282. Based on a similar number of total dispositions during FY 1986-87, State expenditures would increase by an estimated \$25 million for housing the convicted felons. In addition, due to the current severe overcrowding problem, two additional prisons would have to be authorized for construction at a cost of \$40-42 million each.

ARGUMENTS**Supporting Argument**

The bill would put some teeth into the controlled substances Act by ensuring that anyone convicted of illegal drug deals, regardless of the quantity involved, would face mandatory imprisonment. Not only would at least one year's imprisonment have to be imposed for even the smallest sale of the drugs in question (unless lifetime probation were imposed for an amount under 50 grams), but those selling larger amounts also could not simply be placed on probation and allowed to avoid prison altogether.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

CONTENT

The bill would amend the controlled substances Act within the Public Health Code to require mandatory imprisonment for the unauthorized manufacture or delivery of certain Schedule 1 or 2 controlled substances, or for the prescription of such a controlled substance by a licensed practitioner for illegitimate purposes. Under the current Act, for an amount of 50 grams or more but less than 225 grams, the penalty is imprisonment for not less than 10 years nor more than 20 years or lifetime probation. For an amount under 50 grams, the offender may be imprisoned for up to 20 years and/or fined up to \$25,000. Under the bill, the penalty for the higher quantity would be imprisonment for at least five but not more than 20 years (without the option of lifetime probation). For under 50 grams, the offender would have to be imprisoned for at least one year but not more than 20 years, and could be fined up to \$25,000, or the offender could be placed on probation for life.

In addition, the current Act provides that individuals subject to a mandatory term of imprisonment for certain controlled substance offenses, including possession, are not eligible for probation, suspension of the sentence, or parole during the mandatory term, except as permitted for lifetime probation. Under the bill, an offender also could not receive a reduction in the mandatory term by good time credits, disciplinary credits, or any other type of sentence credit reduction.

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FISCAL IMPACT

The bill would result in an expenditure increase of \$109 million for the State in FY 1986-87. For a conviction for 50 grams or more, the bill would impose a mandatory prison

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