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BILL ANALYSIS

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Senate Bill 429 (Substitute S-1 as reported)**Sponsor: Senator Doug Carl****Committee: Judiciary****Date Completed: 11-4-87*****RATIONALE***

Under the Code of Criminal Procedure, except as otherwise provide by law, a person accused of a criminal offense is entitled to bail. In establishing the amount of bail for the accused, the court is required to give consideration to the seriousness of the offense charged, the previous criminal record of the accused, and the probability of the accused person appearing at the trial. Some people feel that such considerations should be placed on the record and should also include consideration of the protection of the public and the dangerousness of the person accused.

CONTENT

The bill would amend the Code of Criminal Procedure to require a court, in fixing the amount of bail for a criminal offense, to consider the protection of the public and the dangerousness of the accused, in addition to the seriousness of the offense, the previous criminal record of the accused, and the probability of the accused appearing at the trial. In addition, the court would be required to make findings on the above considerations on the record.

MCL 756.6

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

ARGUMENTS***Supporting Argument***

The bill would require a judge to consider two additional criteria in fixing the amount of bail for a person, and to put all findings in consideration of the criteria on the record. The additional criteria to be considered would be the protection of the public and the dangerousness of the accused. Although these factors cannot be used constitutionally to deny bail, according to the Prosecuting Attorneys Coordinating Council, that is not what the bill proposes. Further, the court would still have to consider release on personal recognizance before considering bail. The bill would simply help remove some of the subjective nature of how a judge determines a particular level of bail, by adding to the list of criteria the judge must consider, and requiring the judge's findings to be explicitly placed on the record for examination by the public.

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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.

S.B. 429 (11-4-87)