



**House
Legislative
Analysis
Section**

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**EXTEND DELAYED SENTENCING
FOR "DRUG COURTS"**

**House Bill 5130 as passed by the House
Second Analysis (4-10-96)**

**Sponsor: Rep. Charles Perricone
Committee: Judiciary and Civil Rights**

THE APPARENT PROBLEM:

A number of counties in Michigan have set up differentiated case management dockets ("drug courts") to deal specifically with certain drug offenders by emphasizing treatment and rehabilitation of the drug abuser over incarceration. For example, in Berrien County, rather than sentencing drug offenders to jail terms, the Drug Court Voluntary Diversion Program offers certain offenders, who have already pled guilty, the opportunity to have their sentencing delayed while they are placed into a strict treatment program including regular drug screening, monthly reporting to the judge, and strenuous drug rehabilitation programs.

A defendant's involvement in such a program is entirely voluntary. The basis of the program is an agreement between the defendant, the prosecutor, and the court. During the defendant's participation in the program sentencing is delayed; if the defendant fails or drops out of the program he or she is subject to the possibility of being sentenced under the original charges. If the defendant successfully completes the program the charges against him or her are dismissed and the arrest records are destroyed.

Unfortunately, current Michigan law only allows for sentencing to be delayed for up to one year. When dealing with drug addiction, one year is considered by some the bare minimum for successful treatment and is often insufficient. Legislation has been introduced to allow "drug courts" to delay the sentencing of defendants before them for up to two years.

THE CONTENT OF THE BILL:

Currently, in certain criminal cases where the defendant could be eligible for probation, the Code of Criminal Procedure allows the court to delay the defendant's sentencing for up to one year. The court must also include in its order a supervision fee to be collected by the Department of Corrections (DOC). The delay in sentencing gives the defendant the opportunity to show the court that he or she is a good candidate for probation or any other more lenient penalty.

House Bill 5130 would amend the Code of Criminal Procedure to allow a circuit court or the Recorder's Court of the City of Detroit to delay a defendant's sentencing for up to two years in cases that were placed on a differentiated case management docket devoted to cases involving illegal use or possession of drugs or offenses arising out of the same transaction as those violations. The bill would also allow supervision fees to be charged for up to 24 months in such cases to mirror the delayed sentencing extension. However, provided that DOC personnel were not involved in supervising the individual, the bill would allow a court's local funding unit to collect the supervision fees. Only those supervision fees ordered to be collected by the DOC would continue to have to be maintained in compliance with state law regarding the collection, recording, and allocation of such fees (MCL 791.225a).

The bill would take effect May 1, 1996.

MCL 771.1

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, extending the period of delay for sentencing could increase local costs of supervision for offenders who were supervised by the court. For defendants who were supervised by probation agents, supervision costs could increase for the Department of Corrections (DOC). However, the state or local costs could be offset by the collection of monthly supervision fees. Furthermore, to the extent that the use of delayed sentencing reduced the use of incarceration, there could be state or local savings. (4-10-96)

ARGUMENTS:

For:

"Drug court" voluntary diversion programs save money by lowering the rate of repeat offenses and by limiting the amount of jail time served by offenders. The drug courts have had an 11 percent recidivism rate over the

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four and a half years they have been in place, approximately one-quarter of the normal recidivism rate for drug offenders.

These results have been with the limited period of one-year of delayed sentencing to work with the offenders; most people feel that a bare minimum of one year of successful treatment is needed to consider an individual rehabilitated. Having two years to work on the rehabilitation of an offender will provide the courts with a far greater opportunity to increase both their rate and level of success.

Against:

The bill doesn't go far enough. It would only give the opportunity for a two-year delay in sentencing to people arrested for drug and related offenses. Unfortunately, many people with substance abuse problems are arrested for crimes which do not involve drugs. The current language of the bill would not provide these people with the same opportunity for rehabilitation as those arrested for drug crimes. Further, whenever a court places a defendant under delayed sentencing (for whatever offense), the longer a period of time the court has to observe the defendant the better able the court is to fully assess the defendant's eligibility for probation or other leniency compatible with the ends of justice and the rehabilitation of the defendant.

Against:

The efforts of the court in drug court cases are demanding and time consuming. The drug courts increase the delays in already slow moving criminal dockets and use judicial resources that could be better spent on more serious cases.

Response:

Given the effectiveness of the drug court programs, it is, at best, inaccurate to characterize drug courts as a waste of resources. One of the most positive results the judicial system can hope for in its contact with criminals is to lower the rate of recidivism. These programs have shown that they are, therefore, worth the extra expenditure of judicial resources.

POSITIONS:

There are no positions on the bill.

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.