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COMPUTING CONCURRENT AND CONSECUTIVE PRISON SENTENCES

House Bill 4238 and 4239

Sponsor: Rep. Tony Stamas

**Committee: Criminal Law and
Corrections**

Complete to 2-18-99

A SUMMARY OF HOUSE BILLS 4238 AND 4239 AS INTRODUCED 2-9-99

The bills would require that each judgement of sentence (a written document that is delivered with the prisoner) committing an individual to a term of prison indicate whether the sentence is to run consecutively or concurrently. If the judgement of sentence does not indicate whether the sentence is to run concurrently or consecutively, the bills would provide guidelines for how the sentence should be treated.

House Bill 4238 would amend the Code of Criminal Procedure (MCL 769.27) to require that a judgment of sentence committing a prisoner to the jurisdiction of the Department of Corrections specify whether the sentence is to run consecutively to or concurrently with any other sentence the defendant is or will be serving. At the time of sentencing, the court would be required to provide a copy of the judgment of sentence to the prosecuting attorney, the defendant, and the defendant's counsel. Any of these individuals could file an objection to the judgment of sentence within 14 days after receiving it, and the court would be required to promptly hold a hearing on any objection filed. Under the bill, this procedure for reviewing a judgment of sentence would be in addition to any other review procedure authorized by statute or court rule.

In addition, the bill would change the notice requirements for those instances where the court changed an individual's sentence. Under current law, when this occurs, only the prosecuting attorney receives notice from the court. The prosecuting attorney, once notified, then has five days to object to the changes made by the court. The bill would expand the notice requirement for such cases and require the court to provide written notice to, in addition to the prosecutor, the defendant and the defendant's counsel. In addition, any of these individuals, including the defendant if he or she were not represented, would have 14 days to file any objections with the court and the court would be required promptly to hold a hearing on any objection filed.

House Bill 4239 would amend the Department of Corrections act (MCL 791.264) to clarify the method of computing prisoners' sentences where the judgement of sentence does not specify whether the sentence is concurrent or consecutive. The bill would require the record office of the prison to compute the length of a prisoner's sentence, based on a certified copy of the court's judgment of sentence. When the judgment fails to indicate whether the sentence is to run concurrently or consecutively with other sentences, then the bill would generally require the sentence to be computed concurrently. However, the sentence would be computed consecutively if the prisoner was convicted of any of the following crimes: prison or jail escape; escape while

House Bills 4238 and 4239 (2-18-99)

awaiting examination, trial, or arraignment for a felony, or escape while being transferred after receiving a felony sentence; possessing a firearm during a felony; or, taking another person hostage while a prisoner. If a prisoner's judgment of sentence did not specify how the sentence should be computed and, under the bill, the record office was required to treat the sentence as consecutive, the department would be required to notify the affected prisoner that his or her sentence was being treated as a consecutive sentence no later than three days after the sentence was computed.

Analyst: W. Flory

■ 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.