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SFA**BILL ANALYSIS**

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House Bill 6041 (Substitute H-1 as passed by the House)
House Bill 6042 (Substitute H-1 as passed by the House)
Sponsor: Representative Randy Richardville (House Bill 6041)
Representative Cameron Brown (House Bill 6042)
House Committee: Criminal Justice
Senate Committee: Judiciary

Date Completed: 9-24-02

CONTENT

House Bills 6041 (H-1) and 6042 (H-2) would amend the Code of Criminal Procedure and the Uniform Criminal Extradition Act, respectively, to do all of the following:

- **Allow a Michigan court to require that an individual sign a waiver of extradition to this State before releasing him or her on bail, and require the waiver as a condition of release on bail for some criminal charges.**
- **Require that a court immediately revoke the bail of a person for whom the Governor signed an arrest warrant for extradition to another state, if that person had been released on bail.**
- **Prohibit the release on bail of a person charged with an offense punishable in another state by imprisonment for 20 years or more or with escaping from custody or confinement.**
- **Provide that, if a criminal prosecution had begun under Michigan law against a person charged with a crime in another state, the Uniform Criminal Extradition Act's restrictions on the length of commitment pending extradition would not apply during the Michigan prosecution.**
- **Allow a court to order that a person extradited to Michigan and convicted of a crime in this State pay the costs of the extradition.**
- **Provide that, if a person arrested in Michigan on charges in another state waived extradition proceedings, the judge would have to remand the person to custody without bail.**

The bills are tie-barred and would take effect on January 1, 2003.

House Bill 6041 (H-1)

The bill specifies that a court could require an individual to sign a written waiver of extradition to Michigan before releasing him or her on bail. The court could consider a person's failure to sign a waiver in determining his or her bail amount.

The court would have to require that an individual sign a written waiver of extradition to Michigan before releasing him or her on bail, if he or she were charged with a crime for which bail may be denied under Article I, Section 15 of the State Constitution.

(Under Article I, Section 15, bail may be denied for the following people, "when the proof is evident or the presumption great":

- A person who has been convicted of two or more violent felonies arising out of at least two

- separate incidents within the preceding 15 years.
- A person facing charges of murder or treason.
 - A person facing charges of first-degree criminal sexual conduct, armed robbery, or kidnapping with intent to extort money or other valuable things, unless the court finds by clear and convincing evidence that the defendant is not likely to flee or present a danger to any other person.
 - A person facing charges for a violent felony alleged to have been committed while he or she was on bail, pending the disposition of a prior violent felony, or while on probation or parole as a result of a prior conviction for a violent felony.

"Violent felony" means a felony, an element of which involves a violent act or threat of a violent act against any other person.)

House Bill 6042 (H-1)

Under the Uniform Criminal Extradition Act, if the Governor decides that another state's demand for extradition of a person should be complied with, the Governor must sign a warrant for that person's arrest. The bill specifies that, if that person had been released on bail, the court immediately would have to revoke bail and could not release the person on bail but would have to detain him or her subject only to habeas corpus review.

Under the Act, if it appears to a judge or magistrate that someone held in Michigan is a person charged with a crime in another state and that he or she has fled from justice, the judge or magistrate must commit the person to the county jail, so that he or she can be arrested under an extradition warrant. The judge or magistrate may grant bail to the person, under the condition that he or she appear before the court at a specified time for his or her surrender on an extradition warrant. Bail is not permitted, however, if the offense for which the person is charged is punishable by death or imprisonment for life. The bill also would prohibit bail for a person charged with an offense punishable by imprisonment for 20 years or more or with escaping from custody or confinement.

The bill specifies that, if a criminal prosecution had been instituted under Michigan law against a person charged in another state with an offense punishable by death or more than one year's imprisonment, the restrictions on the length of commitment specified in the Act would not apply during the period that the criminal prosecution was pending in Michigan. (Under the Act, the court-ordered commitment of a person to jail so he or she can be arrested on an extradition warrant may be for a time specified in the warrant, not exceeding 30 days; if the accused is not arrested under an extradition warrant by the time specified, a judge or magistrate may discharge the person or recommit him or her for a further period not to exceed 60 days.)

Under the bill, a Michigan court could order an individual who was extradited to this State and who was convicted of a crime to pay the actual and reasonable costs of extradition, including transportation costs and the salaries or wages of law enforcement and prosecution personnel, including overtime pay, for processing the extradition and returning the individual to Michigan.

The Act provides that any person arrested in Michigan and charged with having committed any crime in another state or alleged to have escaped from confinement or broken the terms of bail, probation, or parole may waive the issuance and service of the Governor's extradition warrant and all other procedures incidental to extradition proceedings, by signing a document consenting to his or her return to the demanding state. The bill specifies that, if a waiver were executed, the judge would have to remand the person to custody without bail. The order would have to direct the officer having the person in custody to deliver him or her to the duly authorized agent of the demanding state, together with a copy of the order and the waiver.

Proposed MCL 765.6d (H. B. 6041)
MCL 780.6 et al. (H. B. 6042)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The Office of the Governor processes approximately 300 to 350 extraditions annually. The bills would have an indeterminate impact on the number of individuals on bail.

Fiscal Analyst: Bill Bowerman

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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.