

Legislative Analysis



PAROLE AND PROBATION REVISIONS

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House Bill 5654 (H-2)
House Bills 5655 and 5656
Sponsor: Rep. Bill McConico
Committee: Judiciary

Complete to 11-28-06

A SUMMARY OF PROPOSED HOUSE BILL 5654 (H-2), AND HOUSE BILLS 5655 AND HOUSE BILL 5656 AS INTRODUCED 2-8-06

In 2002, legislation was enacted that eliminated the mandatory minimum sentences for drug offenses involving the manufacture/delivery/possession of Schedule 1 and 2 narcotics and cocaine, revised the penalties for various drug crimes, eliminated parole for life for violations involving less than 50 grams of a Schedule 1 or 2 narcotic or cocaine, and provided parole for people previously convicted and sentenced to mandatory minimum terms of imprisonment for drug offenses prior to the effective date of the revisions, which was March 1, 2003. The bill package, of which all the bills are tied to each other, would make further amendments to this area of law as described below.

House Bill 5654

House Bill 5654 would amend the Corrections Code (MCL 791.234). Among other things, Public Act 670 of 2002 shortened the minimum time a person has to serve before being eligible for parole for persons convicted of violating the Public Health Code's prohibition on the manufacture/delivery/possession of Schedule 1 and 2 narcotics and cocaine before the act's effective date. As written, a person who committed an offense before the revisions took effect, but was convicted after the revisions took effect, is not eligible for parole under the revised criteria and is therefore subject to the general parole provisions. In general, a prisoner is eligible for parole after serving his or her minimum sentence.

The bill would amend the code to apply the revised parole criteria, for offenses involving 25 grams to 999 grams of prohibited substances, to persons whose offense occurred before March 1, 2003, but who were sentenced according to those sections of the Public Health Code as they existed before March 1, 2003. This would apply regardless of the date of the conviction.

The bill would also allow a person convicted of violating or conspiring to violate provisions of the Public Health Code involving amounts of Schedule 1 and 2 narcotics and cocaine of 1,000 grams or more, but whose offense occurred before March 1, 2003 and who was sentenced to serve a term of years, to be eligible for parole after serving 20 years (if he or she had another serious crime) or 17½ years if he or she did not have

another conviction for a serious crime, or after serving the minimum sentence, whichever was less.

House Bill 5655

House Bill 5655 would amend the Public Health Code (MCL 333.7401 and 333.7403) to repeal Section 333.7413. The repealed section provides a life sentence without the possibility of parole for a second or subsequent conviction of manufacture/delivery/possession, or conspiracy to commit the same, involving Schedule 1 and 2 narcotics and cocaine of 50 to 999 grams. Section 7413 also allows the penalties for several other violations involving Schedule 1 and 2 narcotics and cocaine to be enhanced for second or subsequent violations.

House Bill 5656

House Bill 5656 would amend the Code of Criminal Procedure (MCL 771.2). Public Act 666 of 2002 deleted Section 1(4) of Chapter XI, which allowed for life probation for offenses involving less than 50 grams of a Schedule 1 or 2 narcotic or cocaine. However, the act specified in Section 2(3) that a defendant who had been placed on life probation under Section 1(4) prior to the act's effective date (March 1, 2003) would still be subject to the conditions of probation specified in the code.

The bill would clarify that Section 2(3) applies to a defendant placed on life probation under Section 1(4) as it existed before March 1, 2003 for an offense committed before March 1, 2003.

FISCAL IMPACT:

A fiscal analysis is in process.

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■ 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.