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BILL ANALYSIS

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Senate Bill 1428 (Substitute S-1 as reported)
Sponsor: Senator Alan L. Cropsey
Committee: Judiciary

Date Completed: 10-6-06

RATIONALE

Chapter 10a (Drug Treatment Courts) of the Revised Judicature Act authorizes circuit and district courts to adopt drug treatment courts and allows family divisions of circuit courts (family courts) to adopt juvenile drug treatment courts. Drug treatment courts (drug courts) provide a comprehensive program of treatment and intervention designed to rehabilitate offenders who abuse or are addicted to drugs and/or alcohol, thereby reducing the possibility that they will return to the justice system. Drug court programs, however, are not available everywhere in the State. It has been suggested that a court that has adopted a drug court be allowed to receive participants from any other jurisdiction in the State based on a participant's residence where the drug court was operational or the unavailability of a drug court where the person was charged with a crime.

CONTENT

The bill would amend the Revised Judicature Act to allow a court that had adopted a drug court to accept participants from any other jurisdiction in Michigan based upon either a participant's residence in the receiving jurisdiction or the unavailability of a drug treatment court in the jurisdiction where the participant was charged.

The transfer would have to occur pursuant to guidelines promulgated by the State Court Administrative Office (SCAO) and would not be valid unless agreed to by all of the following:

- The defendant or respondent.
- The judge, prosecuting attorney, and defense attorney of the transferring court.

- The judge and the prosecuting attorney of the receiving drug court.

The bill also would require that a drug court comply with the 10 key components promulgated by the National Association of Drug Court Professionals. Currently, the Act states that a drug court "should" comply with those key components.

In addition, the Act allows the family court in any judicial circuit to adopt or institute a juvenile drug court. The family court must enter into a memorandum of understanding with certain parties, including a representative of the criminal defense bar. The bill would require that person to be someone specializing in juvenile law.

MCL 600.1060 & 600.1062

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The concept behind drug courts is that the judge, through his or her actions in court proceedings and through interactions with offenders, can effect a change in offenders' behavior, resulting in reduced criminal activity. Drug courts have become increasingly accepted across the country over the last 15 years or so, as studies have suggested that drug court participation is cost-effective and reduces recidivism. Given the effectiveness of drug courts, it stands to reason that the State should try to enroll as many eligible offenders as possible in drug court programs.

According to the Michigan Association of Drug Court Professionals, Michigan has 62 operational drug courts, and 10 more in the planning stages. These drug courts are located in 30 of Michigan's 83 counties. Since drug treatment courts are not available in every jurisdiction in the State, many people who otherwise might benefit from drug court programs do not have access to them. By authorizing a court that had adopted a drug court to accept participants from other jurisdictions, the bill would maximize the use of drug courts. Enrolling more offenders in drug court programs would help those individuals overcome their substance abuse problems and avoid related criminal activity, as well as ease the burden on the corrections system by diverting offenders from prison or jail.

Opposing Argument

Under the bill, the transfer of an offender to a jurisdiction with a drug court would have to occur pursuant to guidelines promulgated by the SCAO. Although the SCAO is authorized to establish guidelines for various aspects of court administration (such as case reporting and data collection), there are several issues related to transfer of jurisdiction that should be addressed in the bill rather than SCAO guidelines. For instance, the bill does not mention whether the sending court or the receiving court would be responsible for the costs of drug court participation; which court would collect fines and costs, and if the sending court did so, whether it would have to transfer the money to the receiving court to pay for the offender's participation in the drug court; which court could assess a probation oversight fee, if the drug court participant were sentenced to probation; or where the offender would have to serve jail time, if a jail term were part of the sentence or were imposed as a penalty for failing to meet drug court program requirements.

In addition, some of the costs of participating in drug court programs apparently are assessed on the participant, but a portion may be covered in cases of indigence. Different jurisdictions reportedly have different definitions of indigence, however, and it is unclear how that would be resolved in the case of a transferred offender. Also, drug court participation may involve ancillary programs with costs of their own, such as employment assistance and GED enrollment. Moreover, if the bill's

transfer authorization applied to juvenile drug courts, there would be a host of issues surrounding juvenile detention and treatment, none of which are addressed by this legislation.

Response: The bill would require that the sending and receiving courts agree to the transfer. The details discussed above could be addressed on a case-by-case basis in those formal agreements.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State government. The impact on local units of government is indeterminate. The bill does not specify whether the transferring jurisdiction or the receiving jurisdiction would bear the cost of the individual in drug treatment court. Because the local units are required to match a portion of the Federal and State funds for drug treatment courts, both receiving and transferring units could see a fiscal impact from the bill if the transferring unit were required to bear the cost.

According to the National Association of Drug Court Professionals, a comprehensive drug court treatment program typically costs between \$2,500 and \$4,000 per person per year.

Fiscal Analyst: Stephanie Yu

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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.