

EXPEDITED COMMUTATIONS FOR CERTAIN PRISONERS

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House Bill 4509

Sponsor: Rep. Mark Meadows

House Bill 4510

Sponsor: Rep. Rick Jones

Committee: Judiciary

Complete to 3-24-09

A SUMMARY OF HOUSE BILLS 4509 AND 4510 AS INTRODUCED 3-4-09

Together, House Bills 4509 and 4510 would establish a mechanism to expedite a request for a commutation of sentence for a prisoner based on physical or mental incapacity or for a terminally ill prisoner. The bills are tie-barred to each other, meaning that neither bill can take effect unless both are enacted.

When the parole board receives an application for a reprieve, commutation, or pardon, it must conduct a review to determine if the request has merit; deliver its determination to the governor; forward specified documentation to the sentencing judge and county prosecutor; direct the Bureau of Health Care Services to evaluate the condition of the prisoner in question if the application or initiation for commutation is based on physical or mental incapacity; make a full investigation and determination on whether or not to proceed to a public hearing; conduct a public hearing after first sending notices to certain people as required; and transmit its formal recommendation to the governor. Though there are specified time periods for some of these steps, the entire process can still exceed a year (up to 15 months) just to deliver the board's recommendation to the governor.

The bills would amend the Corrections Code to shorten the process for prisoners seeking a commutation based on physical or mental incapacity or for those who had less than six months to live.

House Bill 4509 would amend Section 44 of the code (MCL 791.244) to make the following changes:

- Currently, the sentencing judge and county prosecutor with jurisdiction over the case may file information at their disposal, along with any objections, in writing within 30 days of receiving the written notice of the filing of the application or initiation of the request for commutation. Under the bill, in the case of a proposed commutation based on physical or mental incapacity, a response would have to be filed within 14 days. The current 30-day time period would still apply in all other situations.
- Currently, a public hearing must be held not later than 90 days after a decision to proceed with consideration of a commutation, reprieve, or pardon. Written notice of the required public hearing on a commutation must be provided at least 30 days before the hearing to the state attorney general, the sentencing trial judge, the county

prosecutor, and each victim requesting notice under provisions of the William Van Regenmorter Crime Victim's Rights Act. The bill would shorten the time-period for notification of a public hearing conducted for a proposed commutation based on physical or mental incapacity to at least 14 days before the public hearing and would allow the notice to be provided at the same time the notice described above was provided to the sentencing judge and county prosecutor.

- Currently, when an application or initiation for commutation is based on mental or physical incapacity, the prisoner's condition must be evaluated and reported by the Bureau of Health Care Services. If it determines the prisoner is mentally or physically incapacitated, the bureau must appoint an appropriate specialist, not employed by the Department of Corrections, to also evaluate and report on the prisoner's condition. Both of the evaluation reports must be provided to the governor. The bill would waive the requirement for a public hearing for a proposed commutation based on mental or physical incapacity if both of the evaluation reports gave the prisoner a life expectancy of six months or less and the parole board gave written notice of the proposed commutation to the attorney general, sentencing judge, prosecuting attorney (or their successors in office), and each victim requesting notification.

The written notice would have to request that a written response be given within 14 days as to the proposed commutation and could be made simultaneously with the first notice made to the sentencing judge and prosecutor described above. Any written responses would have to be forwarded to the governor along with the parole board's final recommendation and would be matters of public record. This provision would not apply to a prisoner serving a sentence for a listed offense as defined in the Sex Offenders Registration Act.

House Bill 4510 would amend the Corrections Code (MCL 791.235) to specify that a provision allowing the parole board to grant a medical parole for a prisoner determined to be physically or mentally incapacitated would not preclude a prisoner from seeking a commutation based on physical or mental incapacity under Section 44.

FISCAL IMPACT:

To the extent that the bill enabled commutations and subsequent paroles to be completed more quickly, the department could experience savings. Savings would depend on the numbers of prisoners affected, the degree to which lengths of stay were reduced, and the costs of incarceration.

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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.