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House Bill 4889 (Substitute H-2 as passed by the House)  
Sponsor: Representative Edward McBroom  
House Committee: Criminal Justice  
Senate Committee: Judiciary

Date Completed: 12-3-13

### **CONTENT**

**The bill would amend the Code of Criminal Procedure to require points to be scored in the sentencing guidelines formula if an offense involved traveling into Michigan with a Schedule 1 or 2 controlled substance.**

The sentencing guidelines include offense variables and prior record variables for which points must be scored to determine a range for a person's minimum sentence when he or she is convicted of a felony.

Offense Variable 15 is aggravated controlled substances offenses, and must be scored if certain factors apply. Under the bill, the sentencing court would have to score 50 points if the violation involved traveling from another state or country to Michigan while the offender possessed any mixture containing a Schedule 1 or Schedule 2 controlled substance that is a narcotic or is a drug described in Section 7212 or 7214 of the Public Health Code.

(Sections 7212 and 7214 list the controlled substances that are included in Schedule 1 and Schedule 2, respectively.)

Under the Public Health Code, a Schedule 1 controlled substance has high potential for abuse and has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision. A Schedule 2 controlled substance has high potential for abuse; has currently accepted medical use in treatment in the U.S., or has currently accepted medical use with severe restrictions; and, if abused, may lead to severe psychic or physical dependence.)

The bill would take effect upon the 91st day after it was enacted.

MCL 777.45

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bill would have an indeterminate negative fiscal impact on State and local government. There are no data to indicate how many offenders' sentences would be affected by the additional points. While the maximum sentence is set in statute and would be unchanged by the bill, by creating possible additional points in the offense variable category, the bill has the potential to increase minimum sentences. Judges use three factors in the sentencing guidelines to determine the recommended range of minimum sentences: the class of the offense, the prior record variables, and the offense

variables. Scoring higher on the offense variable would cause the judge to move the offender several rows down in the sentencing grid, which likely means someone who otherwise would receive intermediate sanctions would instead go to prison, and someone who already would be going to prison would likely receive a longer minimum sentence. Additional prison sentences (instead of probation) and/or longer prison sentences would increase criminal justice costs for both State and local units.

Fiscal Analyst: Dan O'Connor

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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.