Legislative Analysis

CREATE THE CRIMINAL JUSTICE DATA COLLECTION AND MANAGEMENT PROGRAM

Senate Bill 11 as enrolled
Sponsor: Sen. Patrick J. Colbeck
House Committee: Michigan Competitiveness
Senate Committee: Michigan Competitiveness   *(Vetoed by the Governor 3-30-17)*
Complete to 12-26-18

BRIEF SUMMARY: Senate Bill 11 would enact the "Criminal Justice Data Collection and Management Program Act." Generally speaking, the provisions of the act would seek to centralize statewide collection, maintenance, and analysis of data related to criminal justice. The bill would take effect 90 days after enactment. The bill is part of a larger legislative initiative regarding corrections; other bills in the package are SBs 5 to 10, 12 to 24, and 50.

FISCAL IMPACT: The bill would create costs for both state and local government. (Please see ***Fiscal Information***, below, for more detail.)

THE APPARENT PROBLEM:

There are a variety of stakeholders in the criminal justice system, from local police departments and district courts to the state Department of Corrections, and each of these entities collects, stores, shares, and utilizes its criminal justice data in different ways. Critics say that there is no statewide "clearing house" for criminal justice data and that this makes it difficult for state lawmakers to identify, and create policies or direct appropriations to support, the programs that successfully reduce key criminal justice statistics and initiatives that enhance public safety.

THE CONTENT OF THE BILL:

Senate Bill 11 would enact the "Criminal Justice Data Collection and Management Program Act." Generally speaking, the provisions of the act would seek to centralize statewide collection, maintenance, and analysis of data related to criminal justice. Specifically, the act would do the following, <u>subject to appropriation</u>:

- Create the Criminal Justice Data Collection and Management Program within the Legislative Council.
- Require the program to be implemented in at least one county, selected by the Legislative Council in consultation with the county's governing body, with partnerships between the county's governing body and state agencies and departments.
- Require the Legislative Council to assign a State Operations Team to oversee the work of the State Project Team and the County Operations Teams.
- Require necessary and available funding be provided to the State Court Administrative Office (SCAO), Department of Corrections (DOC), and

participating counties to implement technological changes and additional data collection systems or new data collection practices, based upon the recommendation of the State Operations Team. [The Department of Technology, Management, and Budget (DTMB) would distribute these funds.]

- Allow the Legislative Council to request "reports" that would include aggregated data and statistics collected under the act's provisions

"State Operations Team" would mean a group of individuals, or an individual, employed by the Legislative Council as an at-will, nontenured employee, employed by a third party under contract with the Legislative Council, or under contract with the Legislative Council, to execute state-level data collection processes and criminal justice data collection processes and to manage the collection of data from counties participating in the program and from state agencies and departments, including the SCAO, DTMB, and DOC.

"State Project Team" would mean a group of individuals, or an individual, employed by the Legislative Council as an at-will, nontenured employee, employed by a third party under contract with the Legislative Council, or under contract with the Legislative Council, to develop and assist in the implementation of processes and technology improvements that facilitate the collection of criminal justice data from the participating counties and from state agencies and departments, including the SCAO, DTMB, and DOC.

"County Operations Team" would mean a group of individuals, or an individual, selected by the governing body of a participating county to work in coordination with the State Project and State Operations Teams to implement the proposed Program.

Under the act, counties, through a County Operations Team, would collect and provide to the State Operations Team data that supports the determination of the following:
- County jail capacity
- Rearrest recidivism (defined in the act as "*the rearrest of an offender as measured first after three years and again after five years from the date of his or her release from incarceration, placement on probation, or conviction for a criminal offense, whichever is later, for a new felony or misdemeanor offense, or for a parole or probation violation*")
- Reconviction recidivism (defined in the act as *"the reconviction of an offender,"* etc.)
- Reincarceration recidivism (defined in the act as *"the reincarceration in jail or prison of an offender,"* etc.)
- The application of sentencing guidelines

The SCAO and DOC would collect and provide to the State Operations Team data that supports the determination of the following:
- State correctional facility capacity
- Rearrest recidivism
- Reconviction recidivism
- Reincarceration recidivism
- The application of sentencing guidelines

The State Operations Team would then provide the data to the DTMB, which would house and maintain the data. This data would be confidential and not subject to FOIA requests. DTMB would only allow access to the data by members of the DTMB and State Operations Team, and would provide access to the data to the State Operations Team. DTMB would charge the Legislative Council and provide an invoice for the data services provided.

A member of the legislature may make a request to the Legislative Council, which would be able to request that the State Operations Team generate a "report" from the data. The "report" would consist of aggregated data and statistics collected under the act, and would not include any data containing uniquely identifying information not already available to the public or any information that could reasonably lead to the disclosure of nonpublic information as determined by the State Operations Team. This "report" would be subject to FOIA requests.

BACKGROUND INFORMATION:

The existing Criminal Justice Policy Commission (CJPC) was created within the Legislative Council by Public Act 465 of 2014. Among its many responsibilities, it is specifically charged with collecting and analyzing information regarding state and local sentencing and release policies and practices; working with DOC to analyze data regarding the effectiveness of efforts to reduce recidivism; and working with SCAO to collect, analyze, and compile data regarding the effect of sentencing guidelines. The CJPC is supposed to carry out its work and then the commission is repealed as of January 12, 2019. The Commission is composed of 17 members—two members of the House of Representatives, two members of the Senate, one representative of the attorney general, and twelve members appointed by the governor.

FISCAL INFORMATION:

At the state level, the creation of the Criminal Justice Data Collection and Management Program may require additional staffing and administrative expenses within the Legislative Council. Initial startup costs associated with the program are unspecified, but would be subject to legislative appropriation constraints. In Article XX of Public Act 268 of 2016, $500,000 was appropriated to support the Criminal Justice Policy Commission. These funds could be used to support necessary expenses associated with this program. Future programming costs would be subject to additional appropriations by the Legislature. The Department of Corrections, the State Court Administrative Office, and the Department of Technology, Management, and Budget would also incur costs for new technology and data collection. If funds currently appropriated in the budget act were insufficient to cover the added costs, any new funding would be subject to appropriation by the Legislature.

Counties that elect to participate in the program would also incur certain programming costs (information technology and data collection costs). The provisions of the bill specify that counties must be provided any necessary grant funding to support these costs. However, any new funding would be subject to appropriation by the Legislature. The

magnitude of the costs would depend on the number of counties that elect to participate and the required IT and data collection costs necessary to participate.

ARGUMENTS:

For:

Supporters of the bill say there is a strong need to coordinate and centralize statewide collection and analysis of criminal justice data. Different departments within the criminal justice system often work in "silos" and don't coordinate or communicate with one another, especially in the field of data tracking and warehousing. Since these departments and organizations are actively collecting and managing the data, the state should take advantage of that information by coordinating collection.

Response:

The Criminal Justice Policy Commission (CJPC) already exists in the Legislative Council to, generally speaking, study and collect information on Michigan's criminal justice system. This Commission is to carry out its extensive responsibilities until January of 2019. Is another entity within the Legislative Council the answer to the problem presented? Or will another entity in the criminal justice system simply add to the confusion of data collection and management? It is not clear how the CJPC and proposed Data Collection and Management Program will co-exist, as they have potentially competing needs for resources and overlapping mandates. The Department of Corrections has recommended that further discussion take place between all of the various data collecting entities to find the most efficient means of collecting and sharing data.

While the bill allows for "reports" to be generated from the data collected, the bill does not describe any other outputs, analysis, findings, or recommendations that will be generated from the collected data. The CJPC, in contrast, has a mandate to develop recommendations for the legislature, produce reports, and even to submit specific recommendations to the governor. The Data Collection and Management Program has no such provisions; the large statewide task of data coordination and management could result in data that is not immediately useful or practical.

For:

Advocates for the bill, and the corrections-related package to which it belongs, say Michigan's criminal justice system is not currently "data-driven." In many instances, they say, lawmakers do not know which parole and probation programs are most successful at reducing recidivism, but continue to fund the programs and the department through appropriations. According to testimony, the hallmark of this criminal justice bill package is establishing the ability for lawmakers to look at success or failure with quantifiable, identifiable data.

Against:

Critics of the bill note that while counties, state level departments, and state agencies will contribute data to the warehouse, access to the warehouse is limited to the State Operations Team and the DTMB. It is unclear why access to the data is limited to these entities, when

the contributors and beneficiaries of the full data set are the participating counties, departments, and agencies. The bill also lacks participation from the Michigan State Police.

Further, as written, the bill only requires the program to be implemented in at least one county, and funding for a county's costs of data collection and technology is subject to legislative approval. This could decrease the usefulness of data collection if only one county, and potentially a small county or outlier county, chose to participate; and the uncertainty of a legislative appropriation could decrease the monetary incentive for counties to join.

Vetoed 3-30-17:

In his veto message, Governor Snyder wrote: "I recognize the critical need policymakers have for complete and accurate data... Unfortunately, the present bill is not sufficiently comprehensive to address the significant challenges Michigan faces in collecting criminal justice data."

The governor noted that, without a centralized system for collecting criminal justice data in Michigan, "data is scattered across courts, jails, and police agencies in eighty-three different counties, utilizing several different data-management systems. Consequently, our existing criminal justice databases at the state level are incomplete and contain unverified data... Given these problems, a significant expenditure of funds would be required to upgrade data collection systems in Michigan simply to begin satisfy some of the data-collection obligations imposed by the bill."

He added, "If we are committed to making the improvements necessary to establish a system that would allow for the collection of complete and accurate system of criminal-justice data, then all relevant players must be at the table and all relevant local data sources must be considered. The Department of State Police has important criminal justice data but it is not included within this bill. Without including all local jurisdictions and all relevant state departments, any effort to solve Michigan's data collection problems would be incomplete and would not adequately serve Michigan's criminal-justice policymakers."

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