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BILL ANALYSIS

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Senate Bills 5 through 10 (as enacted) **PUBLIC ACTS 2-7 of 2017**
Senate Bills 12, 13, and 15 (as enacted) **PUBLIC ACTS 8-10 of 2017**
Senate Bill 16 (as enacted) **PUBLIC ACT 1 of 2017**
Senate Bills 17 through 24 (as enacted) **PUBLIC ACTS 11-18 of 2017**

Sponsor: Senator John Proos (S.B. 5, 9, 13, 16, 23, & 24)
Senator Tonya Schuitmaker (S.B. 6)
Senator Marty Knollenberg (S.B. 7)
Senator Peter MacGregor (S.B. 8)
Senator Margaret E. O'Brien (S.B. 10)
Senator David Knezek (S.B. 12)
Senator Rick Jones (S.B. 15)
Senator Mike Shirkey (S.B. 17)
Senator Ken Horn (S.B. 18)
Senator Dale W. Zorn (S.B. 19)
Senator Dave Robertson (S.B. 20)
Senator Rebekah Warren (S.B. 21)
Senator Bert Johnson (S.B. 22)

Senate Committee: Michigan Competitiveness
House Committee: Michigan Competitiveness

Date Completed: 7-7-17

RATIONALE

The Michigan Department of Corrections currently houses approximately 40,500 prisoners. Each year, roughly half of the individuals who enter prison are probation or parole violators. That is, these individuals had been sentenced to a term of probation, or had been incarcerated and released on parole, but then were sent to prison or returned to prison for violating a condition of probation or parole. In some cases, a violation might be another criminal offense, while in others, it might be technical, such as using alcohol or failing to report to a probation officer. On average, approximately 60,000 individuals are being supervised on probation or parole in Michigan. In order to prevent these offenders from being incarcerated, or reincarcerated, many people believe that the State should take additional or different steps to ensure that the individuals are successfully reintegrated into the community. Although various programs have been implemented, apparently there is a lack of data as to which work and which do not, and it is not clear why some approaches are effective and others fail. Also, it was pointed out that Michigan law contained no standard definition of "recidivism"; although most people understand that the term refers to a return to criminal behavior, it was suggested that a uniform definition could help policymakers measure the extent to which probationers or parolees commit new crimes and are rearrested and imprisoned, and the extent to which rehabilitation programs are effective. In addition, it was suggested that sanctions other than incarceration would be appropriate for some parole violators, as well as help reduce the prison population. Some people also believe that it may be useful to have information as to why prisoners are not released on parole when they reach their eligibility date.

Many recommended the enactment of legislation to address these and related issues, in order to prevent the commission of additional crimes, reduce prison costs, and help probationers and parolees lead productive, crime-free lives.

CONTENT

The bills enacted new statutes and amended existing statutes to do the following regarding parole or probation, or both:

- **Create the Parole Sanction Certainty Program, which must use a set of established sanctions to supervise eligible offenders who have been placed on parole.**
- **Provide for a 30-day maximum period of incarceration for a probationer who commits a technical probation violation, unless he or she has committed three or more such violations.**
- **Allow a court to reduce a defendant's term of felony probation by up to 100%, after the defendant has completed half of the original probation period, if certain conditions are met.**
- **Require the Department of Corrections (DOC) to adopt an incentive program that provides funding to field operations and administration regions that achieve a measurable reduction in parole and probation revocations.**
- **Provide for the use of evidence-based supervision practices by the DOC and local agencies that receive State funding and supervise individuals on probation or parole; and require the DOC and the agencies to eliminate practices that do not reduce recidivism.**
- **Define "recidivism".**
- **Require data regarding recidivism rates collected under several laws to separate data concerning technical violations from data concerning new convictions.**
- **Create the "Swift and Sure Probation Supervision Fund" and require money in the Fund to be used for grants to fund circuit court programs of swift and sure probation supervision; establish eligibility criteria for individuals to participate in the Swift and Sure Probation Supervision Program; and allow a court receiving a grant to accept participants from other jurisdictions, if various conditions are met.**
- **Establish procedures that will apply if the Governor requests the Parole Board to expedite the review and hearing process for a reprieve, commutation, or pardon based on a prisoner's medical condition.**
- **Require the DOC to report quarterly to legislative committees regarding the number of prisoners who have reached their earliest possible release-on-parole date but have not been granted parole.**

The bills also amended statutes to do the following:

- **Require the DOC to allow representatives of various organizations to register with the Department to provide inmate reentry services.**
- **Require the DOC to develop rehabilitation plans and provide youth rehabilitation programming for prisoners who are approximately 18 to 22 years old.**
- **Require the DOC to report quarterly to the Department of Health and Human Services (DHHS) regarding parole absconders who are being actively sought by a law enforcement agency.**
- **Prohibit the DHHS from granting cash assistance to parole absconders, or granting food assistance to parole absconders who are being actively sought by law enforcement.**
- **Allow money in the Crime Victim's Rights Fund to be used for compensation to crime victims who are less than 18 years old.**
- **Refer to a high school equivalency certificate, rather than a GED certificate, in provisions of the Corrections Code dealing with parole requirements.**

Each bill took effect on June 29, 2017.

Senate Bills 5, 6, and 7

Senate Bills 5, 6, and 7 amended the Code of Criminal Procedure, the Community Corrections Act, and the Corrections Code, respectively, to define "recidivism", "technical parole violation", and

"technical probation violation"; and require data regarding recidivism rates collected under those laws to separate data concerning technical violations from data concerning new convictions.

Each bill defines "recidivism" as the rearrest, reconviction, or reincerceration in prison or jail for a felony or misdemeanor offense or a probation or parole violation of an individual 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, whichever is later.

Under each bill, "technical parole violation" means a violation of the terms of a parolee's parole order that is not a violation of a law of this State, a political subdivision of this State, another state, or the United States or of tribal law. "Technical probation violation" means a violation of the terms of a probationer's probation order that is not a violation of a law of this State, a political subdivision of this State, another state, or the United States or of tribal law.

Each bill requires data collected and maintained under the Code or the Act regarding recidivism rates to be collected and maintained in a manner that separates the data regarding technical probation violations and technical parole violations from data on new felony and misdemeanor convictions.

In addition, Senate Bill 6 modified a provision of the Community Corrections Act that requires the State Community Corrections Advisory Board to adopt a variety of key performance indicators that promote offender success, ensure the effective monitoring of offenders, and evaluate community corrections programs. At least one of the key performance measures must be recidivism. The bill refers to the recidivism rate of offenders supervised under the Act. The bill also specifies that nothing in these provisions requires a community corrections program operated under the Act to collect, measure, maintain, or track data for offenders who are not supervised by the community corrections program.

Senate Bill 8

The bill enacted a new statute to provide for the use of evidence-based supervision practices by an agency (the Department of Corrections or a local agency that receives State funding and supervises individuals on probation or parole). Specifically, the bill does the following:

-- Requires the agency to adopt policies, rules, and regulations that, within four years, will result in all supervised individuals being supervised in accordance with evidence-based practices.
-- Requires evidence-based practices to include a risk and needs assessment tool, assessment scores, definitions of risk levels, the development of case plans, responses to compliant and noncompliant behavior, and other items.
-- Provides that, within four years, all State funds spent on recidivism intervention programs must be for programs that are in accordance with evidence-based practices.
-- Requires the agency to eliminate practices that do not reduce recidivism.
-- Requires the agency to develop policies and rules that improve crime victim satisfaction with the criminal justice system.
-- Requires the agency to provide its employees and supervising agents with training and professional development services to support the implementation of evidence-based practices.
-- Requires the agency to provide various officials with an annual report on its efforts to implement the act.

Definitions

"Agency" means the Department of Corrections or any regional, local, or county governmental agency that receives State funding and is responsible for supervising individuals who are placed on probation or who are serving a period of parole or postrelease supervision from a prison or jail. The term does not include a district court probation department established under Section 8314 of the Revised Judicature Act. (That section allows the judge or judges of a district to establish a probation department within a district control unit, and provides that the district control unit is responsible for the expense of the probation department.)

"Evidence-based practices" means supervision policies, procedures, programs, and practices that scientific research demonstrates reduce recidivism among individuals on probation, parole, or postrelease supervision.

"Program" means an intervention, other than medical services, that is intended to reduce recidivism by supervised individuals and is funded in whole or in part by the State or is administered by an agency of the State.

"Supervised individual" means an individual placed on probation or serving a period of parole.

"Recidivism", "technical parole violation", and "technical probation violation" have the same definitions as in Senate Bills 5, 6, and 7.

Supervision Policies, Rules, & Regulations

The agency is required to adopt policies, rules, and regulations that, within four years after the effective date of the act, result in all supervised individuals being supervised in accordance with evidence-based practices or practices developed based upon evidence-based practices, in order to improve success rates of supervised individuals and to reduce their recidivism rates. In doing so, the agency must consult with and seek recommendations from local law enforcement agencies, including sheriffs' departments, circuit courts, county prosecutors' offices, and community corrections programs.

The policies, rules, and regulations must include all of the following:

-- The adoption, validation, and use of an objective risk and needs assessment tool.
-- The use of assessment scores and other objective criteria to determine the risk level and program needs of each supervised individual, prioritizing supervision and program resources for offenders at higher risk to reoffend.
-- Definitions of low-, moderate-, and high-risk levels during the period of supervision.
-- The development of a case plan, based on the assessment score, for each individual who is assessed to be moderate to high risk.
-- The development of a case plan, based on the assessment score, for each individual who is assessed to be low risk.
-- The identification of swift, certain, proportionate, and graduated responses that a supervising agent will apply in response to a supervised individual's compliant and noncompliant behaviors.
-- The adoption of caseload guidelines that are based on offender risk levels and take into account agency resources and employee and supervising agent workload.
-- The establishment of protocols and standards that assess the degree to which agency policies, procedures, programs, and practices relating to offender recidivism reduction are evidence-based.

A case plan must allow a supervised individual options for programming and will be subject to conditions of supervision, if any, imposed by a court having jurisdiction over the individual.

Within four years after the act's effective date, the agency must eliminate supervision policies, procedures, programs, and practices intended to reduce recidivism that scientific research demonstrates do not do so.

Also, within four years after the act's effective date, all State funds spent on programs must be for those that are in accordance with evidence-based practices or developed based upon such practices.

("Case plan" means an individualized accountability and behavior change strategy for supervised individuals that does all of the following:

-- Targets and prioritizes the offender's specific criminal risk factors.

-- Matches programs to the offender's individual characteristics, such as gender, culture, motivational stage, developmental stage, or learning style.
-- Establishes a timetable for achieving specific behavioral goals, including a schedule for victim restitution, child support, and other financial obligations, subject to a determination of ability to pay.
-- Specifies positive and negative actions that will be taken in response to the individual's behaviors.)

Data Collection

The Department of Corrections may form partnerships or enter into contracts with institutions of higher education or other qualified organizations for assistance with data collection, analysis, and research.

Any data collected and maintained under the act regarding recidivism rates must be collected and maintained in a manner that separates the data regarding technical parole violations and technical probation violations from data on new felony and misdemeanor convictions.

Crime Victim Satisfaction

The agency is required to adopt policies, rules, and regulations that improve crime victim satisfaction with the criminal justice system, including all of the following:

-- Supervised individuals' payment of victim restitution and child support.
-- The opportunity for victims to complete victim impact statements or provide input into presentencing investigation reports.
-- Providing victims with information about their rights and services, and referrals to obtain those rights and services.
-- Facilitating victim-offender dialogue when a victim is willing.
-- Offering victims the opportunity to complete a "victim satisfaction survey" with data used to measure agency performance.

The Department of Attorney General must develop that survey for use by the agency.

Training & Professional Development

The agency must provide its employees and supervising agents with intensive initial and ongoing training and professional development services to support the implementation of evidence-based practices. The services must include assessment techniques, case planning, risk reduction and intervention strategies, effective communication skills, substance abuse intervention information, and other topics identified by the agency or its employees.

Agency Report

By March 1 of each year, beginning in 2018, the agency must submit to the Governor, the Secretary of the Senate, the Clerk of the House of Representatives, and the Supreme Court Administrative Office a comprehensive report on the agency's efforts to implement the act. The report must include all of the following:

-- The percentage and number of supervised individuals being supervised in accordance with evidence-based practices.
-- The amount of State funds spent for evidence-based programs.
-- A list of all programs, including an identification of all evidence-based programs.
-- An identification of all supervision policies, procedures, programs, and practices that are eliminated.
-- The results of victim satisfaction surveys.

-- The agency's recommendations for resource allocation, and any additional collaboration with other State, regional, or local public agencies, private entities, or faith-based or community organizations.

The agency must make the full report and an executive summary of it available to the general public on the agency's website.

Senate Bill 9

The bill amended the Corrections Code to require the Department of Corrections to allow representatives of various organizations to register with the Department for the purpose of providing inmate reentry services, and require the DOC to develop policies and procedures for screening, approving, and registering organizations and their representatives.

Specifically, subject to the policies and procedures it adopts for screening and approving applicants, the DOC must allow representatives from all nonprofit faith-based, business and professional, civic, and community organizations that apply, to be registered with the Department for the purpose of providing inmate reentry services. Reentry services include, but are not limited to, counseling, the provision of information on housing and job placement, and money management assistance.

The Department must develop and adopt policies and procedures for screening, approving, and registering organizations and representatives from the organizations listed above that apply to provide inmate reentry services. The DOC may deny approval and registration to an organization or representative if the Department determines that the organization or representative does not meet its screening guidelines.

The DOC and each of the correctional facilities in the State retain the discretion to deny entry into a correctional facility at any time to a representative of a listed organization, regardless of whether he or she previously applied to and was registered with the Department to provide inmate reentry services within a correctional facility.

The DOC must post a Department telephone number and provide a registration application on its public internet website for use by representatives from an organization described above who wish to provide inmate reentry services, to obtain information and begin the application process for registration.

The DOC is prohibited from endorsing or sponsoring any faith-based reentry program or endorsing any specific religious message. The Department also may not require an inmate to participate in a faith-based program.

Senate Bill 10

The bill amended Chapter III of the Corrections Code, which governs paroles, to require the Department of Corrections to submit a report detailing the number of prisoners who have reached their earliest possible release-on-parole date under the requirements of Chapter III, but who have not been granted parole. The Department must submit the report quarterly to the Senate and House committees responsible for legislation concerning corrections issues.

The report must categorize the total number of parole denials by the number of prisoners who have been denied parole for the following reason or reasons:

-- The nature and circumstances of the offense for which the prisoner is incarcerated at the time of the parole consideration.
-- The prisoner's institutional program performance, including whether he or she completed all required programming.

-- The prisoner's institutional conduct, including the number of major misconduct charges for which the prisoner has been found guilty and security classification increases over the previous five years and the year immediately before parole consideration.
-- The prisoner's prior criminal record and pending criminal charges or detainers.
-- Whether the prisoner was previously granted parole and had his or her parole revoked.
-- Whether the prisoner was identified in the Federal Combined DNA Index System (CODIS) and linked to an unsolved criminal violation.
-- Other relevant factors under the parole guidelines.

The bill defines "prior criminal record" as the recorded criminal history of a prisoner, including all misdemeanor and felony convictions, probation violations, juvenile adjudications for acts that would have been crimes if committed by an adult, parole failures, and delayed sentences.

Senate Bill 12

The bill amended the Corrections Code to establish procedures that will apply if the Governor requests the Parole Board to expedite the review and hearing process for a reprieve, commutation, or pardon based in part on a prisoner's medical condition. The expedited process generally parallels the standard process, but includes several shortened time frames.

The Code establishes procedures for the Parole Board to follow upon its own initiation of, or upon receiving an application for, a reprieve, commutation, or pardon. Under the bill, these procedures will apply except in cases in which the Governor requests the Board to expedite the review and hearing process based in part on a prisoner's medical condition.

Upon such a request from the Governor, within 10 days after receiving an application for a reprieve, commutation, or pardon, the Parole Board must conduct a review to determine whether the application has merit. (In other cases, the Board must conduct such a review within 60 days after receiving an application.)

As required in other cases, the Parole Board must deliver to the Governor either the written documentation of the initiation or the original application with the Board's determination regarding merit, and keep a copy of each in its file, pending an investigation and hearing.

Within five days after initiation, or after determining that an application has merit, the Parole Board must forward to the sentencing judge and to the prosecuting attorney of the county having original jurisdiction of the case, or their successors in office, a written notice of the filing of the application or initiation, together with copies of the application or initiation, any supporting affidavits, and a brief summary of the case. (In other cases, the Parole Board is required to forward these items within 10 days after initiation or after determining that an application has merit.)

At least 30 days after receiving notice of the filing, the sentencing judge and the prosecuting attorney, or their successors in office, may file information at their disposal, together with any objections, in writing. If the judge and the prosecutor, or their successors, do not respond after 30 days, the Parole Board must proceed on the application or initiation. (These steps reflect the procedure that applies in other cases.)

The Parole Board must direct the Bureau of Health Care Services to evaluate the prisoner's physical and mental condition and report on that condition. (In other cases, this is required if an application or initiation for commutation is based on physical or mental incapacity.) As required in other cases, if the Bureau determines that the prisoner is physically or mentally incapacitated, it must appoint a specialist in the appropriate field of medicine who is not employed by the Department of Corrections, to evaluate and report on the prisoner's condition. The reports will be protected by the doctor-patient privilege of confidentiality, although they must be given to the Governor for his or her review.

Within 90 days after initiation by the Parole Board or receipt of an application that the Board has determined to have merit, the Parole Board must make a full investigation and determination on

whether to proceed to a public hearing. (In other cases, the Board must do so within 270 days after initiation or receipt of an application that the Board determined has merit.)

The remaining provisions of the bill are the same as the law that applies in other cases.

Within 90 days after deciding to proceed with consideration of a recommendation for the granting of a reprieve, commutation, or pardon, the Parole Board must conduct a public hearing, which must be held before a formal recommendation is transmitted to the Governor. One member of the Parole Board who will be involved in the formal recommendation may conduct the hearing, and the public must be represented by the Attorney General or a member of his or her staff.

At least 30 days before conducting the public hearing, the Parole Board must mail written notice of the hearing to the Attorney General, the sentencing judge, and the prosecuting attorney, or their successors in office, and each victim who requests notice under the Crime Victim's Rights Act.

The Parole Board must conduct the public hearing under the rules promulgated by the Department. A person having information in connection with the pardon, commutation, or reprieve must be sworn as a witness. A person who is a victim must be given an opportunity to address and be questioned by the Parole Board at the hearing or to submit written testimony for the hearing. In hearing testimony, the Board must give liberal construction to any rules of evidence.

The Parole Board must transmit its formal recommendation to the Governor. The Board also must make all data in its files available to the Governor if the Board recommends the granting of a reprieve, commutation, or pardon. Except for medical records protected by the doctor-patient privilege, the files of the Parole Board in these cases will be matters of public record.

Senate Bill 13

The bill added Section 4b to Chapter XI (Probation) of the Code of Criminal Procedure to provide for a 30-day maximum period of incarceration for a probationer who commits a technical probation violation, unless he or she has committed three or more such violations.

The bill defines "technical probation violation" as a violation of the terms of a probationer's probation order that is not a violation of an order of the court requiring the probationer to have no contact with a named individual, or that is not a violation of a law of this State, a political subdivision of this State, another state, or the United States, or of tribal law. The term does not include the consumption of alcohol by a probationer who is on probation for a felony violation of Section 625 of the Michigan Vehicle Code (operating while intoxicated).

Beginning on January 1, 2018, a probationer who commits a technical probation violation and is sentenced to temporary incarceration in a State or local correctional or detention facility may be incarcerated for a maximum of 30 days for each technical violation. A probationer must not be given credit for any time served on a previous technical violation. After serving the period of temporary incarceration, the probationer may be returned to probation under the terms of his or her original probation order or under a new probation order, at the discretion of the court.

This limit on temporary incarceration does not apply to a probationer who has committed three or more technical probation violations during the course of his or her probation. If more than one technical violation arises out of the same transaction, the court must treat the violations as a single technical probation violation for the purposes of Section 4b.

The limit on temporary incarceration also does not apply to a probationer who is on probation for a domestic violence violation of Section 81 (assault or assault and battery), Section 81a (unarmed assault with the infliction of serious or aggravated injury), Section 411h (stalking), or Section 411i (aggravated stalking) of the Michigan Penal Code.

The court may extend the period of temporary incarceration to not more than 90 days if a probationer, as part of his or her probation, has been ordered to attend a treatment program but a treatment bed is not currently available.

Section 4b does not prohibit the court from revoking a probationer's probation and sentencing the probationer under Section 4 of Chapter XI for a probation violation, including a technical violation, at any time during the course of probation.

(That section authorizes the sentencing court to revoke probation if, during the probation period, the court determines that the probationer is likely to engage again in an offensive or criminal course of conduct or that the public good requires revocation of probation. Section 4 also specifies that all probation orders are revocable in any manner the court that imposed probation considers applicable either for a violation or attempted violation of a probation condition or for any other type of antisocial conduct or action on the probationer's part for which the court determines that revocation is proper in the public interest. If a probation order is revoked, the court may sentence the probationer in the same manner and to the same penalty as the court might have done if the probation order had never been made. Section 4 does not apply to a juvenile placed on probation and committed to an institution or agency described in the Youth Rehabilitation Services Act.)

Senate Bill 15

The bill amended Chapter XI (Probation) of the Code of Criminal Procedure to allow the court to reduce a defendant's term of probation by up to 100%, after the defendant has completed half of the original felony probation period.

Specifically, except as provided in in the bill for specific crimes, or as provided in Section 2a of Chapter XI or Section 36 of Chapter VIII (Trials), after a defendant has completed half of the original felony probation period of his or her felony probation, the Department of Corrections or probation department may notify the sentencing court. If the court, after a hearing to review the case and the defendant's conduct while on probation, determines that the defendant's behavior warrants a reduction in the probationary term, the court may reduce that term by 100% or less. These provisions do not apply to a defendant who is subject to a mandatory probation term.

(Section 2a of Chapter XI allows a court to impose a probation period of not more than five years for stalking; not less than five years for aggravated stalking; not more than five years for fourth-degree child abuse; and any term of years but not less than five for a "listed offense", as that term is defined in the Sex Offenders Registration Act. Under Section 36 of Chapter VIII, under certain circumstances, a defendant who has been found guilty but mentally ill may be placed on probation for a period of at least five years.)

The bill requires the victim to be notified of the date and time of the hearing and be given an opportunity to be heard. The court must consider the impact on the victim and repayment of outstanding restitution caused by reducing the defendant's probationary term.

At least 28 days before reducing or terminating a period of probation or conducting a review, the court must notify the prosecuting attorney and the defendant or, if he or she has an attorney, the defendant's attorney. If the court reduces a defendant's probationary term, the period of the reduction must be reported to the Department.

A defendant who was convicted of one or more of the following crimes is not eligible for reduced probation under the bill:

-- A violation of Section 81(5) of the Penal Code (assault or assault and battery of the offender's spouse, former spouse, a person with whom the offender has or has had a dating relationship, an person with whom he or she has a child in common, or a resident or former resident of his or her household; or assault or assault and battery of an individual who is pregnant, knowing that she is pregnant).

-- A violation of Section 84 of the Code (assault with intent to do great bodily harm, less than murder, or assault by strangulation or suffocation).
-- A violation of Section 520c of the Code (second-degree criminal sexual conduct).
-- A violation of Section 520e of the Code (fourth-degree criminal sexual conduct).

By December 31 each year after the bill's effective date, the DOC must report to the Senate and House committees concerning the judiciary or criminal justice the number of defendants referred to the court for a hearing under the bill. In addition, by December 31 of each year after the bill's effective date, the State Court Administrative Office must report to the Senate and House committees concerning the judiciary the number of probationers who were released early from probation under the bill.

Under the Code of Criminal Procedure, a defendant's probation may not exceed two years if the defendant is convicted for an offense that is not a felony, and the probation period may not exceed five years if the defendant is convicted of a felony, except as provided in Section 2a of Chapter XI. Under the bill, these limits apply except as provided in that section or Section 36 of Chapter VIII.

Senate Bill 16

The bill enacted the "Parole Sanction Certainty Act" as Chapter IIIB of the Corrections Code to establish the Parole Sanction Certainty Program within the Department of Corrections, and do the following:

-- Require the DOC to adopt a system of graduated sanctions for parole violations by offenders supervised under the Program.
-- Require the sanctions to use evidence-based practices demonstrated to reduce recidivism and increase compliance with conditions of parole.
-- Require the system to set forth a list of presumptive sanctions for the most common types of supervision violations, and to define positive reinforcements.
-- Require the DOC to implement the Program in the five counties where the most individuals convicted of criminal violations are sentenced to DOC incarceration.
-- Require an individual to be informed of the conditions of parole sanction certainty supervision and to sign an agreement.
-- Provide that a supervised individual who violates a condition of his or her parole sanction certainty supervision will be subject to 1) a confinement sanction (confinement for up to 60 days); 2) a nonconfinement sanction; or 3) parole revocation proceedings and possible incarceration.
-- Provide that failure to comply with a sanction constitutes a violation of parole.

Definitions

"Parole sanction certainty program" means the Program created under Chapter 111B that uses a set of established graduated sanctions to supervise eligible offenders who have seen placed on parole sanction certainty supervision.

"Graduated sanction" means any of a wide range of offender accountability measures and programs, including electronic supervision tools, drug and alcohol testing and monitoring, community service or work crew, day or evening reporting centers, rehabilitative interventions such as substance abuse or mental health treatment, reporting requirements, residential treatment, counseling, confinement, and incarceration.

"Confinement sanction" would mean a violation sanction resulting in confinement in a departmental facility or county jail for not more than 60 days. "Nonconfinement sanction" means a violation sanction that does not result in imprisonment in the custody of the DOC or the county jail, including any of the following:

-- Extension of the period of supervision within the time period provided by law.
-- Additional reporting and compliance requirements.

-- Testing for the use of controlled substances or alcohol.
-- Counseling or treatment for behavioral health problems, including substance abuse.

"Supervised individual" means an individual who is placed on parole subject to parole sanction certainty supervision. "Supervising agent" means the parole agent assigned to directly supervise an individual on parole sanction certainty supervision.

System of Sanctions

By January 1, 2018, the DOC must adopt a system of graduated sanctions for violations of conditions of parole for offenders supervised under the Parole Sanction Certainty Program. The graduated sanctions must use evidence-based practices that have been demonstrated to reduce recidivism and increase compliance with the conditions of parole based on the identified risk and needs of the supervised individual as determined by a validated risk and needs assessment.

("Validated risk and needs assessment" means a tool or tools adopted by the DOC that have been validated as to the tools' effectiveness in determining a supervised individual's likely risk of reoffense, violent reoffense, or both, as well as the offender's criminogenic needs.)

To the extent possible, the system of graduated sanctions must be uniform throughout the State for all parolees subject to parole sanction certainty supervision. In consultation with the Parole Board, the Department must determine which offenders will be placed in the community on parole under the Program.

The DOC must implement the Program in the five counties in the State in which the greatest number of individuals convicted of criminal violations are sentenced to incarceration under the Department's supervision, as determined by the DOC's annual statistical report. The Department may implement the Program in additional counties.

In developing a plan for implementing the Program in a county, the DOC must consult with and seek recommendations from local law enforcement agencies in the county, including the sheriff's department, circuit court, county prosecutor's office, and community corrections programs.

Notice to & Agreement of Supervised Individual

During the initial orientation with his or her supervising agent, a supervised individual must be informed in person of the conditions of his or her parole sanction certainty supervision. The individual must sign a written agreement to abide by those conditions or to be immediately subject to graduated sanctions or to parole revocation, whichever the DOC determines to be appropriate.

Presumptive Sanctions

The Parole Sanction Certainty Program must set forth a list of presumptive graduated sanctions for the most common types of supervision violations, including failing to report, participate in a required program or service, complete community service, or refrain from the use of alcohol or a controlled substance, or pay fines, fees, or victim restitution; violating a protective or no-contact order; refusing to complete a drug test; possessing a firearm; or being involved in a felony-related activity.

The system of graduated sanctions must take into account factors such as the severity of the violation, its impact on the safety or well-being of the crime victim, if applicable, the supervised individual's previous criminal record and assessed risk level, the individual's needs as established by a validated risk and needs assessment, the number and severity of any previous supervision violations, and the extent to which graduated sanctions were imposed for previous violations. The system also must define positive reinforcements that supervised individuals will receive for complying with their conditions of supervision.

Imposition of Sanctions; Modification; Confinement

Subject to the following provision, the DOC must establish a process to review and to approve or reject graduated sanctions that deviate from the presumptive sanctions, before the sanctions are imposed.

A supervised individual who violates the terms of his or her parole sanction certainty supervision, but whose parole will not be revoked by the Parole Board as a result of the violation, may be subject to a confinement sanction and confined in a correctional or detention facility for up to 60 days. After completing his or her confinement, the individual may be returned to parole sanction certainty supervision under the same terms of supervision as those under which he or she was previously supervised, or under new terms, at the DOC's discretion.

A supervised individual will be subject to one of the following for violating any condition of his or her parole sanction certainty supervision:

-- A nonconfinement sanction.
-- A confinement sanction.
-- Parole revocation proceedings and possible incarceration for failure to comply with a condition of supervision.

In addition, if an individual violates a condition of parole sanction certainty supervision, the DOC may either 1) modify the conditions of supervision for the limited purpose of imposing graduated sanctions; or 2) place the individual in a State or local correctional or detention facility for a period specified in the bill's list of presumptive graduated sanctions or as otherwise provided in the bill. An individual may be placed in a local correctional or detention facility only if the facility agrees to take the individual and the DOC has an existing reimbursement agreement with it.

If an individual successfully completes conditions imposed under a graduated sanction, the DOC may not revoke the assigned term of parole sanction certainty supervision or impose additional graduated sanctions for the same violation.

Imposition of Sanctions

If a supervising agent intends to modify the conditions of a supervised individual's parole sanction certainty supervision by imposing a graduated sanction, the agent must notify the individual of the intended sanction. The notice must inform the individual of each violation alleged, the date of each violation, and the sanction to be imposed. A supervising agent's imposition of a sanction must comport with the system of graduated sanctions adopted by the DOC.

Graduated sanctions imposed will be immediately effective. A supervised individual's failure to comply with a sanction will constitute a violation of parole.

A graduated sanction that involves confinement in a correctional or detention facility will be subject to the 60-day limit. If the individual is employed, the DOC must impose the confinement sanction for weekend days or other days or times when the individual is not working, to the extent feasible.

If a supervising agent modifies the conditions of parole sanction certainty supervision by imposing a graduated sanction, the agent must do all of the following:

-- Deliver a copy of the modified conditions to the supervised individual.
-- Note the date of delivery of the copy in the individual's file.
-- File a copy of the modified conditions with the DOC.

DOC Review & Report

On a biannual basis, the Department must review the use of confinement sanctions by supervising agents in the counties where the Parole Sanction Certainty Program is implemented to assess any

disparities that may exist among the agents' use of confinement sanctions and evaluate the effectiveness of the sanctions as measured by the supervised individuals' subsequent conduct.

The DOC must report all of the following biannually to the Senate and House committees concerned with corrections issues:

-- The number of supervised individuals whom the Department, in consultation with the Parole Board, has referred for supervision under the Program.
-- The number of supervised individuals currently being supervised under the Program.

Arrest or Revocation of Parole

Nothing in the Chapter IIIB prevents the arrest of a parolee under Section 39 or the revocation of parole under Section 40a.

(Those sections are contained in Chapter III of the Corrections Code, which establishes the Parole Board in the DOC and provides for the granting of parole. Under Section 39, a probation or parole officer, a peace officer, or an authorized DOC employee may arrest a parole violator without a warrant and detain the person if the officer or employee has reasonable grounds to believe that the person has violated parole or a warrant has been issued for his or her return.

Under Section 40a, a prisoner's parole order is subject to revocation by the Parole Board for cause, as provided in that section.)

Senate Bill 17

The bill enacted the "Supervising Region Incentive Act" to do the following:

-- Require the Department of Corrections to adopt a supervising region incentive program to be offered to field operations administration regions that agree to seek a measurable reduction in parole and probation revocations.
-- Create the Supervising Region Incentive Fund and require the DOC to spend money in the Fund for incentives and assistance to field operations administration regions implementing practices, procedures, and sanctions directed at parole and probation revocation reduction.
-- Require the DOC to make a portion of the money in the Fund available to a region that enters into an agreement with the Department, for the region to begin implementing the supervision practices.
-- Allow a region to receive incentive funding, other than for implementation, only if it achieves at measurable reduction in parole and probation revocations for a quarter compared to the previous quarter.
-- Allow incentive funding to be used only for specified purposes.
-- Require the DOC to submit an annual report to the Senate and House Appropriations Subcommittees on Corrections and to the Senate and House Fiscal Agencies.

The Act will be repealed five years after its effective date.

Definitions

"Field operations administration region" means one of the geographic regions delineated by the DOC that oversee supervised individuals within the region.

"Measurable reduction in parole and probation revocations" means a field operations administration region has achieved a quantifiable reduction in both parole and probation revocations as a percentage of the total number of offenders in each supervised population by the end of a quarter compared to the number of both parole and probation revocations as a percentage of the total number of offenders in each supervised population in the region in the previous quarter of a 12-month period.

Incentive Program

By January 1, 2018, the DOC must adopt a supervising region incentive program to be offered to field operations administration regions that agree to seek a measurable reduction in parole and probation revocations in the regions' supervised population.

To be eligible to receive funding from the Supervising Region Incentive Fund under the program, a field operations administration region must enter into an agreement with the DOC to seek a measurable reduction in parole and probation revocations, by implementing the practices, procedures, and sanctions, as applicable, under the Parole Sanction Certainty Act, as well as other efforts to reduce parole and probation revocations.

The DOC must make an equal share of 20% of the total incentive funds available in the Fund for each field operations administration region in the State, calculated by the number of regions that agree to participate in the program and the total amount of money in the Fund, available to a region that enters into an agreement with the DOC, to begin implementing the supervision practices described above. If a region obtains those funds, the time period for seeking a measurable reduction in parole and probation revocations will begin to run.

Other than the funding to begin implementing the supervision practices, a region may receive incentive funding only for the quarters in which it achieves a measurable reduction in parole and probation revocations compared to the previous quarter. If a region is eligible to receive incentive funding under this provision, the DOC must, on a quarterly basis, provide the region with an equal share of 20% of the total incentive funds available in the Supervising Region Incentive Fund, calculated as described above.

In developing its plan to reduce parole and probation revocations, a region must work with local law enforcement officers within the region, including the sheriffs' departments, circuit courts, county prosecutors' offices, and community corrections programs.

Use of Incentive Funding

A region that receives incentive funding must divide the funds between the parole and probation divisions within the region in proportion to the percentage of supervised individuals in each division.

Incentive funding must be used only for the following purposes:

-- The purchase and maintenance of monitoring technology.
-- Job training.
-- Substance abuse treatment.
-- Mental health counseling and treatment.
-- Approved parolee and probationer incentive programs.
-- The employment of additional supervising agents to reduce supervising agent caseloads.
-- Reimbursement for jail services.
-- Evidence-based cognitive or behavioral programs and practices that have demonstrated success in reducing recidivism.

("Supervising agent" means an individual employed by the DOC to supervise offenders.)

Incentive Fund

The Act creates the Supervising Region Incentive Fund in the State Treasury. The State Treasurer may receive money or other assets from any source for deposit into the Fund, including General Fund appropriations, gifts, grants, and bequests. The Treasurer must credit to the Incentive Fund interest and earnings from Fund investments. Money in the Fund at the close of the fiscal year must remain in the Fund and not lapse to the General Fund. The DOC will be the administrator of the Incentive Fund for auditing purposes.

The DOC may spend money from the Fund, upon appropriation, only for one or both of the following purposes:

-- As an incentive to field operations administration regions that implement supervision practices, procedures, and sanctions directed at parole and probation revocation reduction within the regions.
-- To assist field operations administration regions to implement such practices, procedures, and sanctions.

The DOC may not spend money from the Fund to provide direct monetary payments to a supervising agent.

Annual Report

By November 1 of each year, the DOC must submit a report providing all of the following to the members of the Senate and House Appropriations Subcommittees on Corrections and to the Senate and House Fiscal Agencies:

-- Which and how many field operations administration regions are participating in the supervising region incentive funding program.
-- The total, if any, of the avoided costs of incarceration realized through the implementation of the supervision practices, procedures, and sanctions for parolees and probationers.
-- The total, if any, of the avoided costs of the probation or parole revocation process realized through the implementation of those practices, procedures, and sanctions.

("Avoided costs" means the amount of money that the DOC would have spent if there were no reduction in the number of parole or probation revocations within a field operations administration region calculated based upon historical data compared to actual Department costs for offender monitoring.)

Senate Bill 18

The bill amended the Corrections Code to require the DOC, on a quarterly basis, to give the Department of Health and Human Services a list of supervised individuals who have absconded from supervision and whom a law enforcement agency is actively seeking.

"Supervised individual" means a person who has been released from prison on parole.

"Abscond" means the intentional failure of an individual supervised under the Corrections Code to report to his or her supervising agent and to advise the supervising agent of his or her whereabouts.

"Actively seeking" means either of the following:

-- A law enforcement agency or the DOC intends to enforce an outstanding felony warrant for a supervised individual or arrest a supervised individual for a parole violation or for absconding from supervision within the following 30 days.
-- The supervised individual has an active warrant for absconding.

Senate Bill 19

The bill amended the Social Welfare Act to do the following:

-- Prohibit the DHHS from granting cash assistance to parole absconders.
-- Prohibit the DHHS from granting food assistance to parole absconders who are being actively sought by law enforcement.

-- Require the DHHS Director or his or her designee to review information provided by the DOC to determine if cash assistance recipients or applicants are subject to a warrant for absconding, or if food assistance recipients or applicants are subject to a warrant for absconding and are being actively sought by law enforcement.
-- Prohibit the DHHS from granting food assistance to an individual who has an outstanding felony warrant and is being actively sought by law enforcement.

As amended by the bill, the Act prohibits the DHHS from granting cash assistance to an individual if the Department receives information from a law enforcement officer that the individual is subject to arrest under an outstanding warrant arising from a felony charge. (The Act previously referred to public assistance, rather than cash assistance.) If Federal approval is required in order to prevent the loss of Federal reimbursement as a result of the application of this prohibition to a recipient receiving Family Independence Program assistance or food assistance, however, the DHHS must promptly take any action necessary to obtain that approval. In the absence of any necessary Federal approval, the DHHS must apply the prohibition only to recipients of State family assistance and State disability assistance.

The bill also prohibits the DHHS from granting food assistance to an individual if he or she has an outstanding felony warrant and law enforcement is actively seeking the individual.

In addition, the bill prohibits the DHHS from granting cash assistance to an individual if the Department receives information from the DOC (as provided in Senate Bill 18) that the individual has absconded from supervision. The DHHS also may not grant food assistance to an individual if it receives information from the DOC that he or she has absconded from supervision and that law enforcement or the DOC is actively seeking the individual. These prohibitions are subject to the Federal approval provisions described above.

As amended by the bill, the Act requires the DHHS Director, or the Director's designee, to review information provided by the Department of State Police under the C.J.I.S. Policy Council Act to determine whether cash assistance or food assistance recipients or applicants are subject to arrest under an outstanding arrest warrant arising from a felony charge. (The Act previously referred to public assistance recipients or applicants.)

The bill also requires the DHHS Director or his or her designee to review information provided by the DOC to determine if cash assistance recipients or applicants are subject to a warrant for absconding, and to determine if food assistance recipients or applicants are subject to a warrant for absconding and if they are being actively sought by law enforcement.

As amended by the bill, the Act prohibits the DHHS, subject to the provisions regarding Federal approval, from granting cash assistance or food assistance to an individual if the Department receives information from the State Police that the person is subject to an arrest under an outstanding warrant arising from a felony charge. (Previously, the Act referred to public assistance, rather than cash assistance or food assistance.)

The bill defines "cash assistance" as cash benefits provided under the Family Independence Program, the Refugee Assistance Program, or State Disability Assistance. The bill defines "food assistance" as food benefits provided under the Food Assistance Program administered under the Social Welfare Act.

"Abscond" and "actively seeking" mean those terms as defined in Senate Bill 18.

Senate Bill 20

The bill amended the Corrections Code to refer to a high school equivalency certificate, rather than a general education development (GED) certificate, in provisions dealing with parole requirements.

Under the Code, a grant of parole is subject to certain conditions. These include the condition that a prisoner whose minimum term of imprisonment is two years or more may not be released on

parole unless he or she has earned either a high school diploma or a high school equivalency certificate. The Department of Corrections may waive the requirement as to any prisoner who has a learning disability, who does not have the necessary proficiency in English, or who for some other reason that is not the fault of the prisoner is unable to successfully complete the requirements for a diploma or high school equivalency certificate.

When a prisoner is released, the Department must issue to the prisoner documents regarding certain information, including the prisoner's institutional history. The institutional history information includes whether the prisoner obtained a high school equivalency certificate or other educational degree.

The requirement to earn a high school diploma or high school equivalency certificate as a condition of parole applies only to prisoners sentenced for crimes committed after December 15, 1998. In providing an educational program leading to a high school diploma or equivalency certificate, the Department must give priority to prisoners sentenced for crimes committed on or before that date.

The Code previously referred to a GED certificate, rather than a high school equivalency certificate, in all of those provisions.

Senate Bill 21

The bill amended Public Act 196 of 1989, which creates the Crime Victim's Rights Fund, to allow money in the Fund to be used for compensation to minor crime victims (victims of crime who are less than 18 years old); and to require the DHHS to submit an annual report to the Legislature regarding minor crime victims who receive compensation.

Under the Act, individuals convicted of felonies, misdemeanors, and ordinance violations are assessed penalties that accrue to the Fund. The Act requires the Crime Victims Services Commission to determine the amount of revenue needed to pay for crime victims' rights services. The Department of Health and Human Services must direct the State Treasurer to disburse money from the Fund for that purpose. Previously, amounts in the Fund in excess of the necessary revenue could be used for crime victim compensation.

Under the bill, amounts in the Fund in excess of the necessary revenue needed to pay for crime victim's rights services, as determined by the Commission, may be used for crime victim compensation, including compensation to minor crime victims.

The bill requires the DHHS, beginning December 31, 2017, and then annually, to report to the Legislature all of the following regarding minor crime victims who received crime victim compensation under these provisions:

-- The number of minor crime victims who received compensation.
-- The age, gender, and geographic location of minor crime victims who received compensation.
-- Whether the compensation was used for counseling or other services.
-- If the compensation was used for counseling, whether the minor crime victim received the counseling during a one-time visit or over the course of multiple visits.

Senate Bill 22

The bill amended the Corrections Code to require the Department of Corrections to do the following:

-- Develop rehabilitation plans for prisoners who are approximately 18 to 22 years of age.
-- Provide programming designed for youth rehabilitation for prisoners in that age range.
-- Submit to legislative committees an annual report regarding prisoners in that age range.

The bill requires the DOC to develop rehabilitation plans for prisoners in the custody of the Department who are approximately 18 to 22 years of age that specifically take the prisoner's age into consideration.

To the extent it is able to do so, the DOC must provide programming designed for youth rehabilitation for prisoners in the custody of the Department who are approximately 18 to 22 years of age. The DOC must consult with the family court administrators and seek recommendations regarding the selection of programming designed for youth rehabilitation. The programming may include, but is not limited to, both of the following:

-- Mentoring programs provided by individuals with no misdemeanor or felony convictions.
-- Career skills evaluation and career counseling.

The bill also requires the DOC to submit an annual report to the Senate and House committees responsible for legislation concerning corrections issues. The report must detail all of the following regarding prisoners in the custody of the DOC who are approximately 18 to 22 years of age:

-- The number of those prisoners who are in the custody of the DOC, and the security classification at which each of them is housed.
-- The number housed at each correctional facility.
-- The number, if any, who have been moved from one correctional facility to another in a manner that interrupted the prisoner's programming.
-- The number who have completed programming and, if so, the specific programming they completed.

The bill defines "correctional facility" as a facility operated by the DOC, or by a private entity under contract with the DOC, that houses prisoners under the Department's jurisdiction.

Senate Bill 23

The bill amended the Probation Swift and Sure Sanctions Act (Chapter XIA of the Code of Criminal Procedure) to do the following:

-- Create the "Swift and Sure Probation Supervision Fund" and require the State Treasurer to allocate money from the Fund for administration of the Act and for grants to fund circuit court programs of swift and sure probation supervision.
-- Allow a court that received a grant to accept participants from other jurisdictions in the State, if certain conditions are met.
-- Establish eligibility criteria for participants in the Swift and Sure Probation Supervision Program.

Program Creation

As amended by the bill, the Act states a legislative intent "to create a voluntary state program to fund swift and sure probation supervision based upon the immediate detection of probation violations and prompt imposition of sanctions and remedies to address those violations". Previously, this language referred to probation supervision "at the local level".

The Act creates the State Swift and Sure Sanctions Program and specifies its objectives. The bill requires the Program to be implemented and maintained as provided in the Act, and as described in the current objectives.

Swift & Sure Probation Supervision Fund

The bill creates the Swift and Sure Probation Supervision Fund within the State Treasury. The State Treasurer may receive money or other assets from any source for deposit into the Fund. The Treasurer must direct the investment of the Fund and credit to it interest and earnings from investments. Money in the Fund at the close of the fiscal year is to remain in the Fund.

Previously, the Act required the State Court Administrative Office (SCAO), under the supervision of the Supreme Court, to provide grants to fund programs of swift and sure probation supervision in the circuit court that met the Act's objectives and requirements. The bill, instead, requires the State Treasurer to allocate sufficient funds to allow the SCAO, under the Supreme Court's supervision, to spend funds from the Swift and Sure Probation Supervision Fund to administer the Act and to provide grants to fund those programs.

Grants; Transfer of Participants

The Act allows a court to apply for a grant to fund a program of swift and sure probation supervision by filing an application with the SCAO, and provides that the funding of all grants is subject to appropriation.

Under the bill, a court that has received a grant may accept participants from any other jurisdiction in the State based upon the residence of the participant in the receiving jurisdiction or the unavailability of a swift and sure probation supervision program in the jurisdiction where the participant is charged. The transfer may occur at any time during the proceedings, including before adjudication. The receiving court will have jurisdiction to impose sentence, including sanctions, incentives, incarceration, and phase changes.

A transfer will not be valid unless all of the following agree to it:

-- The defendant or respondent in writing.
-- The attorney representing the defendant or respondent.
-- The judge of the transferring court and the prosecutor of the case.
-- The judge of the receiving court and the prosecutor of the funding unit of that court.

Program Eligibility

An individual is eligible for the Swift and Sure Probation Supervision Program if he or she receives a risk score of other than low on a validated risk assessment.

A defendant who is charged with one of the following crimes is not eligible: first- or second-degree murder; first- or third-degree criminal sexual conduct; armed robbery; treason against the State; or a major controlled substance offense, except such an offense involving less than 25 grams of a Schedule 1 or 2 controlled substance that is a narcotic drug or cocaine.

Judicial Responsibilities

The Act establishes certain requirements for a program of swift and sure probation supervision. Under the bill, a judge is required to meet those requirements if swift and sure probation supervision applies to a probationer.

In addition to the requirements already in the Act, the bill requires a judge to adhere to and not depart from the prescribed list of sanctions and remedies imposed on the probationer.

The judicial responsibilities include providing for the immediate imposition of sanctions and remedies approved by the SCAO. The approved sanctions and remedies may include, but are not limited to, those listed in the Act (temporary incarceration, extension of the period of supervision, drug or alcohol testing, counseling and treatment for emotional or mental health problems, and probation revocation). Under the bill, the sanctions and remedies also may include any other sanction approved by the SCAO.

Senate Bill 24

The bill amended the Revised Judicature Act to allow the circuit court in any judicial circuit to institute a swift and sure sanctions court, by statute or court rule; require the court to carry out

the purposes of the Swift and Sure Sanctions Act; and allow the court to accept participants from other jurisdictions in the State under the circumstances described in Senate Bill 23.

MCL 761.1 & 776.21a (S.B. 5)
MCL 791.402 & 791.404 (S.B. 6)
MCL 791.208a (S.B. 7)
MCL 798.31-798.36 (S.B. 8)
MCL 791.269b (S.B. 9)
MCL 791.231b (S.B. 10)
MCL 791.244 & 791.244a (S.B. 12)
MCL 771.4b (S.B. 13)
MCL 771.2 (S.B. 15)
MCL 791.258-791.258g (S.B. 16)
MCL 791.131-791.137 (S.B. 17)
MCL 791.284 (S.B. 18)
MCL 400.10b (S.B. 19)
MCL 791.233 & 791.234d (S.B. 20)
MCL 780.904 (S.B. 21)
MCL 791.262d (S.B. 22)
MCL 771A.3-771A.6 (S.B. 23)
MCL 600.1086 (S.B. 24)

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

Michigan's prison system has been described as a revolving door, where individuals who have been released keep returning. Considering that approximately half of the new intakes each year are parole or probation violators, and that some 60,000 people in the community are being supervised on parole or probation, it is clear that effective measures to prevent recidivism could make a significant difference in the prison population, saving taxpayer dollars, protecting Michigan residents from becoming crime victims, and creating safe communities where growth can occur. Moreover, prisoners who have served their time and been deemed eligible for parole, and offenders who are sentenced to probation, deserve an opportunity to become productive members of society. Meeting their needs contributes to public safety when parolees and probationers do not reoffend, and reducing the cost of incarceration frees up revenue that can be used for such purposes as education and roadways. Too often, however, programs intended to achieve these ends are ineffective.

This package of legislation is designed to close the revolving door by incorporating evidence-based practices and data-driven decision-making. The barriers to reform have included a lack of information about which rehabilitative programs work and which do not, the inability of policymakers and law enforcement officials to measure what is successful, the absence of incentives to establish innovative programming, and inconsistencies in supervision and sanctions. Various bills in this package address these issues in a number of ways.

The Parole Sanction Certainty Program created by Senate Bill 16 incorporates concepts of the successful swift and sure probation program, in which supervision is more intensive, sanctions are graduated and automatically imposed, and participation is voluntary. According to the 2015 Michigan Supreme Court report on problem-solving courts, "Solving Problems, Saving Lives", swift and sure program graduates were 36% less likely to re-offend, compared with other probationers; 51% of those who entered the program unemployed became gainfully employed upon completing the program; and participants had a lower percentage of jail sentences (13.7%) than other probationers (21.6%). Appropriately, Senate Bills 23 and 24 will reinforce the use of swift and sure sanctions for probation violators by creating a specific fund for courts implementing the program, establishing eligibility criteria for participating probationers, and providing standards for the transfer of participants from other circuit court jurisdictions.

Senate Bill 17 establishes financial incentives for DOC regions to reduce parole and probation revocations; and requires a region to implement the parole sanction certainty practices and sanctions, as well as other efforts that are appropriate for the individual region. This approach should encourage innovation and accommodate local circumstances. The incentive funding then can be used for programs and services that will further reduce recidivism. Senate Bill 8 requires all parolees and probationers, within four years, to be supervised according to evidence-based practices that have been demonstrated to reduce recidivism--which will allow the State and local agencies to build on what is proven to work and eliminate what does not. The bill also requires the adoption of policies that assess the needs of, and require the development of a case plan for, each supervised individual, and that identify swift, certain, proportionate, and graduated responses to both compliant and noncompliant behavior. Several of these bills also include requirements for reporting to committees of the Legislature, which will help legislators to make informed decisions and optimize the use of taxpayer dollars.

Senate Bills 5, 6, 7, and 8 enact a uniform definition of "recidivism". This will give all organizations a common understanding of what is meant when that term is used, and will enable policymakers to identify best practices and accurately measure a program's success.
Additional legislation will help reduce the incarceration of supervised individuals. Senate Bill 13 limits the period a probationer may be incarcerated for technical violations, and Senate Bill 15 allows a judge to reduce a person's period of probation by up to 100% after half of the original period has been completed.

In sum, these measures and the other bills in the package take many necessary steps to modernize Michigan's criminal justice system and reduce the prison population, increase public safety, and allow the State to spend resources on services and programs, rather than incarceration. While some of the bills' provisions are consistent with language in appropriations acts, the legislation incorporates these requirements in statute.

Response: Although the bills represent progress, a number of concerns have been raised. First, despite some similarities, the Parole Sanction Certainty Program will be substantively different in some ways from the probation swift and sure program. Swift and sure probation is designed to provide intensive oversight and structure to high-risk probationers, and each circuit court decides for itself whether to conduct that program. Senate Bill 16, however, does not address parolees' risk of reoffending or the intensity of the supervision. Furthermore, the bill gives the DOC total discretion to decide which parolees to place in the sanction certainty program, which allows the Department to pick those most likely to succeed. To ensure consistency in handing parole violations and limit returns to prison when the public safety will not be at risk, the program should be extended to all probationers--or at least all of those in selected counties.

Regarding the requirement in Senate Bill 8 that all supervision practices be evidence-based within four years, it is not clear how this will compare to existing practices; how those practices will affect the four-year deadline; or how the bill's requirements will be coordinated with swift and sure probation, the new Parole Sanction Certainty Program, or grants to prisoner re-entry local service providers and community corrections funding already provided for by law.

With respect to Senate Bill 15, since judges already have had the authority to reduce a term of probation as they consider appropriate, it is not clear what the bill will accomplish other than to permit the DOC or probation department to notify the court when a probationer has completed half of his or her term of probation. Furthermore, the bill creates an internal inconsistency in the statute because other language permits the court to amend the probation order in form or substance at any time.

Limiting the period of incarceration for technical probation violators, as Senate Bill 13 provides for, is a step in the right direction. The bill, however, does not address the revocation of parole for technical violations, and judges will continue to have complete discretion to revoke probation. Thus, the bill will potentially have no impact on the number of technical violators returned to prison. This could be accomplished, however, by limiting revocation to only the most persistent and severe violators.

Supporting Argument
With respect to individuals who are still in prison, Senate Bill 10 requires the DOC to submit reports on prisoners who have reached their earliest possible release date but have not been paroled, including the reasons parole has been denied. At present, aggregated data about Parole Board decisions are available, but information about individual cases is not. This makes it is difficult to know whether the programs and services provided by the DOC are adequate to prepare inmates for parole, or whether the lack of a particular program or service is hindering a prisoner's parole eligibility. Having some insight into the Board's decision-making might enable law-makers to provide direction to the DOC and allocate funding appropriately.

Response: In deciding to grant or deny parole, the Parole Board's overriding consideration is whether an inmate would be a threat to public safety if he or she were released. Thus, that will be the reason cited in the vast majority of cases in DOC reports on why parole has been denied. In addition, the bill requires a report to categorize parole denials by various reasons, including the nature and circumstances of the offense for which the prisoner was incarcerated and the prisoner's prior criminal record. Those factors, however, are not appropriate for the Parole Board's consideration, and are taken into account at sentencing as well as in the DOC's parole guidelines. While the bill also lists the prisoner's institutional conduct, that factor is a key consideration in determining whether the prisoner would be a threat to public safety--which, again, will be the reason for denying parole.

Supporting Argument
By requiring the DOC to develop rehabilitation plans for 18- to 22-year-old inmates, and to provide youth rehabilitation programming for them, Senate Bill 22 will help address the needs of these individuals, as well as the challenges they present. The required plans and programming will help them succeed after prison, breaking the cycle of imprisonment, release, and reincarceration.

Supporting Argument
Senate Bill 9 will improve prisoners' chances for success after release by requiring the DOC to allow the registration of approved individuals who provide inmate re-entry services on behalf of organizations. A centralized system for tracking and clearing all volunteers should encourage partnerships between the groups and the DOC, as well as streamline volunteers' access to prisoners. At the same time, the Department will retain the authority to disapprove an individual or organization and to deny entry by an organization's representative at any time.

Response: The DOC's authority would be reinforced if the Department were permitted, rather than required, to allow representatives of organizations to be registered.

In addition, the screening criteria should be based on a volunteer's potential risk to institutional order or security, to ensure that the DOC does not reject applicants arbitrarily.

Supporting Argument
In addition to protecting Michigan residents from becoming the victims of new crimes, this legislation includes measures designed to address the needs of individuals who have already been victimized. Under Senate Bill 15, when a hearing is scheduled to determine whether a defendant's term of probation should be reduced, the victim must be notified and given an opportunity to be heard, and the court must consider the impact on the victim that would result from a reduction. Senate Bill 8 requires the DOC and local agencies that supervise probationers and parolees to develop policies and rules that improve crime victim satisfaction with the criminal justice system. Senate Bill 21 makes it clear that funding in the Crime Victim's Rights Fund that is used for crime victim compensation may be used to compensate victims who are under 18 years old, and requires the DHHS to report to the Legislature regarding this use of the Fund.

Supporting Argument
Senate Bills 18 and 19 will ensure that a parolee does not receive certain assistance benefits if the individual intentionally fails to report to his or her parole officer and inform the officer of the parolee's whereabouts. Specifically, the DHHS must deny cash assistance to an absconder, and deny food assistance to an absconder who is being actively pursued by law enforcement or the DOC, if the DHHS receives information from the DOC that the individual has absconded.

Intentionally failing to report as required is a violation, and parole violators should not be entitled to cash or food assistance.

Response: The law should make it clear that only the absconder, and not members of his or her family, will be subject to the denial of assistance. In addition, the DHHS should be required to report to the DOC information contained in an absconder's assistance application, which could be useful locating the person.

Supporting Argument

By providing for an expedited parole process upon the Governor's request, based at least in part on a prisoner's medical condition, Senate Bill 12 may help reduce the prison population while showing compassion toward ill or dying inmates and their families. Although the Parole Board already had the ability to grant a medical parole for a prisoner determined to be physically or mentally incapacitated, the process may be excessively long in some cases.

Supporting Argument

Senate Bill 20 updates terminology by referring to a high school equivalency certificate instead of a GED certificate. This amendment is consistent with changes already made to the State School Aid Act.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

Senate Bills 5, 6, and 7

The bills will have no fiscal impact on State or local government.

Senate Bill 8

The bill will have an indeterminate fiscal impact on State and local government. It is not known whether evidence-based practices for supervision and recidivism intervention will be more or less costly than existing practices.

If the implementation of evidence-based practices increases the rate of probation and parole success, resulting in the commitment of fewer individuals to prison or jail due to probation or parole revocation or recidivism, the State and local units of government may realize savings through a decrease in resource demands on local court systems, law enforcement, community supervision, and correctional facilities. For any decrease in prison intakes, in the short term, the marginal savings to State government will be approximately $3,764 per prisoner per year. In the long term, if the decreased intake of prisoners reduces the total prisoner population enough to allow the Department of Corrections to close a housing unit or an entire facility, the marginal savings to State government will be approximately $34,550 per prisoner per year.

Senate Bill 9

The bill will have no fiscal impact on State or local government.

Senate Bill 10

The bill will have no fiscal impact on State or local government. The additional required report will be completed using existing appropriations of the Department of Corrections.

Senate Bill 12

The bill will have no fiscal impact on State or local government.

Senate Bill 13

The bill will have no fiscal impact on the State and may have a positive fiscal impact on local government. Any temporary incarceration under the bill will take place in local correctional facilities. Except as provided by the bill, a probationer may be imprisoned for up to 12 months in a county jail in consecutive or nonconsecutive intervals over the course of his or her probation. The bill limits the duration of imprisonment for a person's technical probation violation (with certain exceptions) to not more than 30 days for each violation if that person did not commit more than two technical violations during the course of his or her probation. If this provision leads to fewer days of incarceration for probationers, savings will accrue to local units of government. As costs vary by jurisdiction, the savings to any one jurisdiction will depend on the per-day costs to imprison a person as well as the reduction in incarceration days.

Senate Bill 15

The bill will have a positive fiscal impact on the State, though the amount is indeterminate, and it likely will have a positive fiscal impact on local government. It is not known how many probationers will have their terms of probation reduced in a given year or by how much. The current cost to the Department of Corrections to supervise a felony probationer is approximately $3,024 per year. The average number of individuals under probation supervision in 2015 was 45,135, although some were for offenses that are excluded from the provisions of the bill. If the term of probation of every one of those probationers had been reduced by 50%, the maximum allowed by the bill, the number of probationers would have been reduced to 22,567, resulting in savings of $68,242,608 per year. This figure represents the absolute high limit for savings, and the actual savings will be less because not all probationers will qualify to have their terms reduced and not all whose terms are reduced will have them reduced by the maximum amount.

While the State handles the supervision of all individuals sentenced to felony probation, local units of government also will likely realize savings from having fewer individuals on probation. These savings may be in the form of reduced resource requirements from law enforcement, courts, and jails related to probation violations. The amount of savings will vary by jurisdiction, depending on how many probationers are currently in the jurisdiction, how many individuals will no longer be on probation because of the bill, and the costs of current probationers.

The additional reporting requirements for the State Court Administrative Office and the Department of Corrections will result in minimal administrative costs that will be absorbed within existing appropriations.

Senate Bill 16

The bill will have an indeterminate fiscal impact on State and local government. It costs the State an average of $5,260 per year for each parolee supervised. Parole sanction certainty supervision will likely cost more, but it is unknown by how much. A pilot program was launched in November 2015 in targeted counties, but it is too soon to have data on the costs per parolee or parolee outcomes.

If fewer parolees are returned to prison as a result of the bill, there will be savings to the State from lower incarceration costs. For any decrease in prison intakes, in the short term, the marginal savings to State government will be approximately $3,764 per prisoner per year. In the long term, if the reduced intake of prisoners reduces the total prisoner population enough to allow the Department of Corrections to close a housing unit or an entire facility, the marginal savings to State government will be approximately $34,550 per prisoner per year.

Any additional reporting requirements will be handled by the Department of Corrections within existing appropriations.

Senate Bill 17

The bill will have an indeterminate fiscal impact on the State and no fiscal impact on local government. It targets probation and parole revocations both for technical violations and for new offenses. The Department of Corrections currently supervises approximately 60,000 probationers and parolees. From 2012 to 2014, the State averaged 6,120 combined probation and parole revocations that led to imprisonment per year. It is not known if or by how much the incentives in the bill will encourage supervising regions to reduce revocations.

For any decrease in prison intakes, in the short term, the marginal savings to State government will be approximately $3,764 per prisoner per year. In the long term, if the decreased intake of prisoners reduces the total prisoner population enough to allow the Department of Corrections to close a housing unit or an entire facility, the marginal savings to State government will be approximately $34,550 per prisoner per year. In comparison, it costs the State approximately $3,024 per year to supervise a person on probation and $5,260 to supervise a person on parole.

The amount appropriated for incentives will be at the discretion of the Legislature. The FY 2016-17 Corrections budget appropriated $3.0 million for the incentives.

Senate Bill 18

The bill will have no fiscal impact on State or local government. The additional required report will be completed using existing appropriations of the Department of Corrections.

Senate Bill 19

The bill could result in maximum annual savings to the State of approximately $8.5 million in Gross expenditures and $4.3 million in General Fund/General Purpose expenditures, based on the average of expenditures for 2014, 2015, and 2016. The bill will have no fiscal impact on local government.

From information provided by the Michigan Department of Corrections, the figures for parole absconders for the past three years are shown in Table 1.

Table 1

Parole Absconders	
Year	Number
2014	1,635
2015	1,383
2016	1,254

Funding for the public assistance programs covered under the bill is provided by Federal and State revenue sources. Therefore, if benefits are severed for both federally and State-funded programs, there will be Gross expenditure savings; however, the only General Fund/General Purpose savings will be due to a reduction in the caseloads of State-funded programs.

Although Senate Bill 18 requires the Michigan Department of Corrections to provide a quarterly list of parole absconders to the Michigan Department of Health and Human Services to determine the number of absconders who are receiving public assistance, it is not currently known how many parole absconders are presently receiving public assistance. For purposes of determining the maximum fiscal savings under Senate Bill 19, this analysis will assume that the entire population of parole absconders is receiving public assistance benefits for an entire fiscal year.

For the programs that are federally funded, the Federal portion of the Family Independence Program and the Food Assistance Program, assuming all of the parole absconders receive the average public assistance benefit amounts, Table 2 shows the savings if these individuals had been severed from benefits in the prior three years.

Table 2

Federally Funded Public Assistance Benefits	
	100% of Parole Absconders
Year	Maximum Potential Expenditure Savings
2014	$4,683,164
2015	$3,869,584
2016	$4,124,286
Total	**$12,677,034**

For the programs that are State-funded, the State portion of the Family Independence Program and the State Disability Assistance program, if all of the parole absconders are receiving the average public assistance benefit amounts, Table 3 shows the savings if these individuals had been severed from benefits in the prior three years.

Table 3

State-Funded Public Assistance Benefits	
	100% of Parole Absconders
Year	Maximum Potential Expenditure Savings
2014	$4,896,092
2015	$4,086,787
2016	$4,061,141
Total	**$13,044,020**

This analysis assumes the maximum possible savings if all of the parole absconders were indeed receiving public assistance benefits for an entire fiscal year. This may or may not be the case as the number of parole absconders who are receiving public assistance benefits is not currently known. The number of absconders who are actually receiving benefits could range from the entire known universe of absconders to a very small number of absconders. As a result, there will be uncertainty in the total savings until quarterly reports are delivered by the DOC to the DHHS as required by Senate Bill 18.

Senate Bill 20

The bill will have no fiscal impact on State or local government.

Senate Bill 21

The bill will have a minimal negative fiscal impact on the Department of Health and Human Services, and no fiscal impact on local units of government. Although the bill does not expand the population of crime victims eligible to receive compensation from the Crime Victim's Rights Fund, the Department will face a minimal increase in costs resulting from the requirement that it annually issue a report regarding minor crime victims who received crime victim compensation.

The Crime Victim's Rights Fund had a beginning balance of $25.6 million in fiscal year (FY) 2016-17 resulting from a surplus of $2.7 million in FY 2015-16. Projections by the DHHS show an expected surplus of $2.7 million in FY 2016-17, indicating that there is sufficient funding to fulfill the purpose of the Crime Victim's Rights Fund.

Senate Bill 22

The bill will have a negative fiscal impact on the State and no fiscal impact on local government. The bill does not specify what programming will be required for 18- to 22-year-old inmates, and if it is more intensive than what is already offered, costs will increase.

The additional reporting requirements will be handled within existing appropriations.

Senate Bill 23

The bill will have an indeterminate fiscal impact on State and local government. The Swift and Sure Probation Supervision Program is a voluntary program for courts in the State. The State Court Administrative Office currently administers the grant program for courts wishing to implement the program. The budget for fiscal year 2016-17 appropriates $4.0 million for the grants, although the State is not obligated to continue funding them. If passage of the bill leads to more courts implementing swift and sure probation sanctions, it will result in greater costs to local government or the State, or both, depending on whether the grants to local jurisdictions are increased or not.

Senate Bill 24

The bill will have an indeterminate fiscal impact on State and local government. Under the bill, circuit courts will be allowed, but not required, to institute a swift and sure sanctions court. The cost to local government will depend on how many jurisdictions choose to set up these courts and how many probationers are admitted to the program. The typical costs involved with this program are for an increased number of hearings before a judge and bed space in local jails for sanctions. The State Court Administrative Office currently has a grant program set up to reimburse local courts that run swift and sure sanctions courts, but the State will not be obligated to fund them under the bill.

If the program leads to fewer probationers having probation revoked and being sentenced to prison, there will be savings to the State.

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