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BILL ANALYSIS

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House Bill 5234 (as reported without amendment)
Sponsor: Representative Martin Howrylak
House Committee: Law and Justice
Senate Committee: Judiciary

CONTENT

The bill would amend Chapter 11 (Probation) of the Code of Criminal Procedure to establish procedures under which a prisoner (a person committed to jail for one year or less) could be released on medical probation or granted compassionate release. The bill would do the following:

-- Allow a county sheriff to notify a court that a prisoner could be eligible for medical probation if a physician determined that the prisoner was physically or mentally incapacitated, or required acute long-term medical treatment.
-- Allow a court to order placement of a prisoner on medical probation if it found that the prisoner required acute long-term medical treatment or services, or was physically or mentally incapacitated.
-- Prohibit the court from placing a prisoner on medical probation unless a placement option had been secured, the sheriff had made a reasonable effort to determine a source of payment for placement-related expenses, and the court conducted a public hearing in which the prosecuting attorney and each victim were given an opportunity to be heard.
-- Allow an order of medical probation to include as a condition that the prisoner submit to reexamination by a physician to assess whether he or she continued to meet the requirements for medical probation.
-- Allow a county sheriff to notify a court that a prisoner could be eligible for compassionate release if a physician determined that the prisoner had a maximum life expectancy of six months.
-- Allow a court to grant a prisoner's compassionate release if it found that the prisoner had a maximum life expectancy of six months, and that the release would not reasonably pose a threat to public safety or the prisoner.
-- Prohibit the court from granting a prisoner compassionate release unless all of the same conditions as those proposed for medical probation (regarding a placement option, placement-related expenses, and a public hearing) were satisfied.

Proposed MCL 777.3g & 777.3h

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill could have a negative fiscal impact on the State and an indeterminate fiscal impact on local government. It is not known how many prisoners could be eligible for medical probation or compassionate release. The bill would define "prisoner" to include only an individual committed or sentenced to imprisonment for one year or less, so it would not include an inmate under the custody of the Department of Corrections who was housed in a county jail. An inmate released on medical probation would be under the supervision of a county probation office. Since the costs of probation supervision vary by county, it is not possible to calculate the cost of that supervision, but the cost presumably would be less than the cost of incarceration in the county jail, producing a net saving for the county.

The county also would have reduced medical costs for each prisoner released under the bill. Depending on how the medical costs were paid for the released prisoner and his or her income and assets, the State could see increased costs (i.e., the costs paid by Medicaid).

Medicaid costs would vary depending upon need for services. If a person's medical condition were severe enough that person required nursing home care, it is highly likely that he or she would be Medicaid-eligible and would not have many assets to spend down for eligibility. Basic nursing home costs are about $80,000 per year per person with about $28,000 of those costs paid from the General Fund. (The rest are paid by Federal Medicaid match dollars.)

Under the bill, if a court's grant of either medical probation or compassionate release resulted in the county incurring expenses that were not covered by Medicaid, a health care policy, a certificate of insurance, another source of payment of medical expenses, or the prisoner's income or assets, the county could seek reimbursement for those expenses. The bill does not specify whether the calculated expenses would need to be in excess of the county's savings. It also does not specify from whom the county could seek reimbursement, but if it were an entity of the State, the State would experience increased costs.

Date Completed: 4-18-18

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