



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 5137 (Substitute H-5 as reported without amendment)
House Bill 5138 (Substitute H-5 as reported without amendment)
House Bill 5299 (Substitute H-1 as reported without amendment)

Sponsor: Representative Julie Alexander (H.B. 5138)
Representative Joe Tate (H.B. 5138)
Representative David LaGrand (H.B. 5299)

House Committee: Judiciary

Senate Committee: Judiciary and Public Safety

CONTENT

House Bill 5137 (H-5) would amend the Public Health Code to do the following:

- Revise the terms of imprisonment for felony violations involving the manufacture, creation, delivery, or possession with intent to manufacture, create, or deliver certain Schedule 1 or 2 controlled substances.
- Prescribe felony penalties for violations involving the manufacture, creation, delivery, or possession with intent to manufacture, create, or deliver heroin, fentanyl, carfentanil, and certain opiates.

House Bill 5138 (H-5) would amend the sentencing guidelines in the Code of Criminal Procedure to revise the statutory maximum sentences for the delivery or manufacture of certain Schedule 1 or 2 controlled substances and to include the new felonies prescribed in House Bill 5137 (H-5).

House Bill 5299 (H-1) would amend the Code of Criminal Procedure to allow a court to order probation for certain offenses described in House Bill 5137 (H-5).

House Bills 5137 and 5138 are tie-barred and House Bill 5299 is tie-barred to House Bill 5137.

MCL 333.7401 (H.B. 5137)
777.13m (H.B. 5138)
771.1 (H.B. 5299)

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

House Bill 5137 (H-5) could have a positive fiscal impact on the State and local government. The net effect of the proposed changes would be to reduce the maximum length of sentence for certain controlled substance felonies not involving heroin, fentanyl, or carfentanil. Shorter sentences would reduce costs for correctional facilities. For any reduction, in the short term, the marginal savings to State government would be approximately \$3,764 per prisoner per year.

House Bill 5138 (H-5) would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge*, in which the Court ruled that the sentencing guidelines are advisory for all cases.

This means that the changes to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

House Bill 5299 (H-1) would have a positive fiscal impact on the State and local government. Diverting more defendants to probation that otherwise would have been sentenced to jail or prison would reduce demands on jails and correctional facilities, while increasing demands on community supervision. The average cost to State government for felony probation supervision is approximately \$3,024 per probationer per year. For any decrease in prison intakes, in the short term, the marginal savings to State government would be approximately \$3,764 per prisoner per year.

Date Completed: 12-8-20

Fiscal Analyst: Ryan Bergan
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