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BILL



ANALYSIS

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Senate Bill 1214 (as introduced 7-18-12)
Sponsor: Senator Rick Jones
Committee: Judiciary

Date Completed: 9-10-12

CONTENT

The bill would amend the Corrections Code to do the following:

- **Allow the State Attorney General to appeal a parole board decision granting parole.**
- **Specify a standard of review for a parole board decision granting parole.**
- **Require the parole board to maintain records for at least six months after notifying the prosecuting attorney of parole for prisoners convicted of certain violations.**

Appeal of Parole Decision & Standard of Review

Under the Code, except for a prisoner placed on parole after completing a special alternative incarceration ("boot camp") program, a prisoner's release on parole is discretionary with the parole board. An action of the parole board in granting parole can be appealed by the prosecutor of the county from which the prisoner was committed or the victim of the crime for which the prisoner was convicted. The bill also would authorize appeal by the State Attorney General.

Appeal of a parole board decision is to the circuit court in the county from which the prisoner was committed.

The bill specifies that review of the decision to release a prisoner on parole would have to be under an abuse-of-discretion standard. The standard would have to consider whether the parole board's determination fell outside of a principled range of outcomes.

Maintenance of Records

In the case of a prisoner convicted of a violation listed in the bill, the parole board would have to maintain a complete record of all proceedings relating to a parole determination. The record would have to include the board's specific findings regarding the prisoner's eligibility for parole and set forth the factual basis of each of those findings. If parole were granted, the Department of Corrections would have to maintain the record for at least six months after the date the prosecuting attorney was notified of the parole.

The record maintenance requirement would apply to all of the following violations:

- First-degree child abuse.

- First- or second-degree murder.
- Human trafficking.
- First- or second-degree criminal sexual conduct.
- Terrorism that did not cause the death of any individual.

MCL 791.234

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The Department of Corrections already maintains records of parole hearings and continues to maintain the records upon granting parole for all cases, including cases involving the crimes listed in the bill. However, the bill could require an increased level of specificity for the records, which could result in increased administrative costs for record maintenance.

By codifying the Attorney General's Office's authority to appeal a grant of parole, the bill could cause the State to incur costs in the following ways (should the Attorney General's Office choose to exercise this right more frequently):

1. The Attorney General's Office could incur staff costs associated with appealing paroles and/or reviewing cases to consider appealing. It is likely that these staff costs would not require additional funding, but would require the reallocation of time from other tasks.
2. The Department could incur additional costs related to defending parole board decisions. These costs would be in the form of reimbursement from the Department of Corrections to the Attorney General, which defends all State departments in legal matters.
3. To the extent that any of the appeals were successful in reversing the decision to grant parole, the State could incur marginally increased costs of incarceration relative to the status quo.

Fiscal Analyst: Dan O'Connor

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.