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BILL ANALYSIS



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Senate Bill 934 (Substitute S-1)
Sponsor: Senator Rick Jones
Committee: Michigan Competitiveness

Date Completed: 5-18-16

CONTENT

The bill would amend 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 had completed half of the original felony probation period, if the reduction were recommended by the probation officer and other conditions were met, subject to various exceptions.

Specifically, except as provided in Section 2a of Chapter XI or Section 36 of Chapter VIII (Trials), after a defendant had completed half of the original felony probation period of his or her felony probation, the Department of Corrections would be permitted to notify the sentencing court. If the court, after reviewing the case and the defendant's conduct while on probation, determined that the defendant's behavior warranted a reduction in the probationary term, the court could reduce that term by 100% or less, if the reduction were recommended by the probation officer in the case.

(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.)

At least 28 days before reducing or terminating a period of probation or conducting a review, the court would have to notify the prosecuting attorney and the defendant or, if he or she had an attorney, the defendant's attorney, and the Department would have to notify the victim at his or her last known address as required under Sections 18b and 77b of the Crime Victim's Rights Act. (Under those sections, if a defendant is sentenced to probation with a condition for the protection of the victim, and if requested by the victim, the court must notify him or her if it orders early termination of the probation.)

If the court reduced a defendant's probationary term under the bill, the period of the reduction would have to be reported to the Department.

By December 31 each year after the bill's effective date, the Department would have to report to the Senate and House committees concerning the judiciary or criminal justice the number of defendants referred to the court for a hearing and the overall reduction of days supervised during the preceding year.

In addition, by December 31 of each year after the bill's effective date, the State Court Administrative Office would have to report to the Senate and House committees concerning

the judiciary the number of probationers who were released early from probation under the bill.

Currently, 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 would apply except as provided in that section or Section 36 of Chapter VIII.

The bill would take effect 90 days after its enactment.

MCL 771.2

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have a positive fiscal impact on the State, though the amount is indeterminate, and it would likely have a positive fiscal impact on local government. It is not known how many probationers would 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 2014 was 49,643, although some were for offenses that would be excluded from the provisions of the bill. If every one of those probationers had his or her term of probation reduced by 50%, which would be the maximum allowed by the bill, the number of probationers would be reduced to 24,822, resulting in savings of \$75,058,704 per year. This figure represents the absolute high limit for savings, and the actual savings would be less because not all probationers would qualify to have their terms reduced and not all who had their terms reduced would 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 would likely realize savings from having fewer individuals on probation. These savings could be in the form of reduced resource requirements from law enforcement, courts, and jails related to probation violations. The amount of savings would vary by jurisdiction, depending on how many probationers are currently in the jurisdiction, how many individuals would 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 would result in minimal administrative costs that would be absorbed within current appropriations.

Fiscal Analyst: Ryan Bergan

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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.