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BILL ANALYSIS



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Senate Bill 941 (Substitute S-1 as passed by the Senate)

Sponsor: Senator Rick Jones

Committee: Michigan Competitiveness

Date Completed: 8-25-16

CONTENT

The bill would amend the Corrections Code to establish procedures that would apply if the Governor requested 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 would parallel the current process, but would include several shortened time frames. The bill also would revise a time frame within the current process.

The Corrections 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, the current procedures would apply except in cases in which the Governor requested 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 would have to conduct a review to determine whether the application had merit. (Currently, the Board is required to conduct such a review within 60 days after receiving an application.)

As currently required, the Parole Board would have to 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 had merit, the Parole Board would have to 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. (Currently, 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, could file information at their disposal, together with any objections, in writing. If the judge and the prosecutor, or their successors, did not respond after at least 30 days, the Parole Board would have to proceed on the application or initiation. (Currently, the judge and prosecuting attorney may file information within 30 days after receiving notice of the filing, and the Parole Board must proceed if they do not respond within 30 days. The bill would change the time frame to not less than 30 days.)

The Parole Board would have to direct the Bureau of Health Care Services to evaluate the prisoner's physical and mental condition and report on that condition. (Currently, this is required if an application or initiation for commutation is based on physical or mental incapacity.) As currently required, if the Bureau of Health Care Services determined that the prisoner was physically or mentally incapacitated, it would have to appoint a specialist in the appropriate field of medicine who was not employed by the Department of Corrections, to evaluate and report on the prisoner's condition. The reports would be protected by the doctor-patient privilege of confidentiality, although they would have to 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 had determined to have merit, the Parole Board would have to make a full investigation and determination on whether to proceed to a public hearing. (Currently, 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 current law.

Within 90 days after deciding to proceed with consideration of a recommendation for the granting of a reprieve, commutation, or pardon, the Parole Board would have to conduct a public hearing. The public hearing would have to be held before a formal recommendation was transmitted to the Governor. One member of the Parole Board who would be involved in the formal recommendation could conduct the hearing, and the public would have to 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 would have to 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 requested notice under the Crime Victim's Rights Act.

The Parole Board would have to conduct the public hearing under the rules promulgated by the Department. A person having information in connection with the pardon, commutation, or reprieve would have to be sworn as a witness. A person who was a victim would have to 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 would have to give liberal construction to any rules of evidence.

The Parole Board would have to transmit its formal recommendation to the Governor. The Board also would have to make all data in its files available to the Governor if the Board recommended 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 would be matters of public record.

The bill would take effect 90 days after enactment.

MCL 791.244 et al.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

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

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.