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BILL ANALYSIS



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Senate Bill 8 (as introduced 1-18-17)
Sponsor: Senator Peter MacGregor
Committee: Michigan Competitiveness

Date Completed: 1-25-17

CONTENT

The bill would create a new statute to provide for the use of evidence-based supervision practices by an agency (the Department of Corrections or a local agency that receives State funding and supervises individuals on probation or parole). Specifically, the bill would do the following:

- Require an agency to adopt policies, rules, and regulations that, within four years, resulted in all supervised individuals being supervised in accordance with evidence-based practices.
- Require evidence-based practices to include a risk and needs assessment tool, assessment scores, definitions of risk levels, the development of case plans, responses to compliant and noncompliant behavior, and other items.
- Provide that, within four years, all State funds spent on recidivism intervention programs would have to be for programs that were in accordance with evidence-based practices.
- Require an agency to eliminate practices that did not reduce recidivism.
- Require an agency to develop policies and rules that improved crime victim satisfaction with the criminal justice system.
- Require an agency to provide its employees with training and professional development services to support the implementation of evidence-based practices.
- Allow the Department of Corrections to form partnerships or enter into contracts with institutions of higher education or other qualified organizations for assistance with data collection, analysis, and research.
- Require an agency to provide various officials with an annual report on its efforts to implement the proposed act.
- Require data regarding recidivism rates to separate data concerning technical probation or parole violations from data concerning new convictions.

The bill would take effect 90 days after enactment.

Definitions

"Agency" would mean the Department of Corrections or any regional, local, or county governmental agency that receives State funding and is responsible for supervising individuals who are placed on probation or who are serving a period of parole or postrelease supervision from a prison or jail. The term would not include a district court probation department established under Section 8314 of the Revised Judicature Act. (That section allows the judge or judges of a district to establish a probation department within a district control unit, and

provides that the district control unit is responsible for the expense of the probation department.)

"Evidence-based practices" would mean supervision policies, procedures, programs, and practices that scientific research demonstrates reduce recidivism among individuals on probation, parole, or postrelease supervision.

"Recidivism" would mean the rearrest, reconviction, or reincarceration in prison or jail for a felony or misdemeanor offense or a probation or parole violation, or any combination of those events, of an individual as measured first after three years and again after five years from the date of his or her release from incarceration, placement on probation, or conviction, whichever is later.

"Program" would mean an intervention, other than medical services, that is intended to reduce recidivism by supervised individuals and is funded in whole or in part by the State or is administered by an agency of the State.

"Supervised individual" would mean an individual placed on probation or serving a period of parole or postrelease supervision from prison or jail.

"Technical parole violation" would mean a violation of the terms of a parolee's parole order that is not in and of itself a violation of a law of this State, a political subdivision of this State, another state, or the United States or of tribal law. "Technical probation violation" would mean a violation of the terms of a probationer's probation order that is not in and of itself a violation of a law of this State, a political subdivision of this State, another state, or the United States or of tribal law.

Supervision Policies, Rules, & Regulations

An agency would be required to adopt policies, rules, and regulations that, within four years after the effective date of the proposed act, resulted in all supervised individuals being supervised in accordance with evidence-based practices or practices developed based upon evidence-based practices, in order to improve success rates of supervised individuals and to reduce their recidivism rates. In doing so, the agency would have to consult with and seek recommendations from local law enforcement agencies, including sheriffs' departments, circuit courts, county prosecutors' offices, and community corrections programs.

The policies, rules, and regulations would have include all of the following:

- The adoption, validation, and use of an objective risk and needs assessment tool.
- The use of assessment scores and other objective criteria to determine the risk level and program needs of each supervised individual, prioritizing supervision and program resources for offenders at higher risk to reoffend.
- Definitions of low-, moderate-, and high-risk levels during the period of supervision.
- The development of a case plan, based on the assessment score, for each individual who was assessed to be moderate to high risk.
- The development of a case plan, based on the assessment score, for each individual who was assessed to be low risk.
- The identification of swift, certain, proportionate, and graduated responses that an agency employee would use in response to a supervised individual's compliant and noncompliant behaviors.
- The adoption of caseload guidelines that were based on offender risk levels and took into account agency resources and employee workload.
- The establishment of protocols and standards that assessed the degree to which agency policies, procedures, programs, and practices relating to offender recidivism reduction were evidence-based.

A case plan would have to allow a supervised individual options for programming from which he or she could make a selection. If an individual exercised his or her option to choose programming, the selected programming could not be less rigorous than the programming that the individual otherwise would have been required to complete. The case plan would be subject to conditions of supervision, if any, imposed by a court having jurisdiction over the individual.

Within four years after the effective date of the proposed act, an agency would have to eliminate supervision policies, procedures, programs, and practices intended to reduce recidivism that scientific research demonstrated did not do so.

Also, within four years after the act's effective date, all State funds spent on programs would have to be for those that were in accordance with evidence-based practices or developed based upon such practices.

("Case plan" would mean an individualized accountability and behavior change strategy for supervised individuals that does all of the following:

- Targets and prioritizes the offender's specific criminal risk factors.
- Matches programs to the offender's individual characteristics, such as gender, culture, motivational stage, developmental stage, or learning style.
- Establishes a timetable for achieving specific behavioral goals, including a schedule for victim restitution, child support, and other financial obligations, subject to a determination of ability to pay.
- Specifies positive and negative actions that will be taken in response to the individual's behaviors.)

Recidivism Data

Any data collected and maintained under the proposed act regarding recidivism rates would have to be collected and maintained in a manner that separated the data regarding technical parole violations and technical probation violations from data on new felony and misdemeanor convictions.

Crime Victim Satisfaction

An agency would be required to adopt policies, rules, and regulations that improved crime victim satisfaction with the criminal justice system, including all of the following:

- Supervised individuals' payment of victim restitution and child support.
- The opportunity for victims to complete victim impact statements or provide input into presentencing investigation reports.
- Providing victims with information about their rights and services, and referrals to obtain those rights and services.
- Facilitating victim-offender dialogue when a victim was willing.
- Offering victims the opportunity to complete a "victim satisfaction survey" with data used to measure agency performance.

The Department of Attorney General would be required to develop that survey for use by an agency.

Employee Services

An agency would have to provide its employees with intensive initial and ongoing training and professional development services to support the implementation of evidence-based practices.

The services would have to include assessment techniques, case planning, risk reduction and intervention strategies, effective communication skills, substance abuse intervention information, and other topics identified by the agency or its employees.

Agency Report

By March 1 of each year, beginning in 2018, an agency would have to submit to the Governor, the Secretary of the Senate, the Clerk of the House of Representatives, and the Supreme Court Administrative Office a comprehensive report on the agency's efforts to implement the proposed act.

The report would have to include all of the following:

- The percentage and number of supervised individuals being supervised in accordance with evidence-based practices.
- The amount of State funds spent for evidence-based programs.
- A list of all programs, including an identification of all evidence-based programs.
- An identification of all supervision policies, procedures, programs, and practices that were eliminated.
- The results of victim satisfaction surveys.
- The agency's recommendations for resource allocation, and any additional collaboration with other State, regional, or local public agencies, private entities, or faith-based or community organizations.

The agency would have to make the full report and an executive summary of it available to the general public on the agency's website.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. It is not known whether evidence-based practices for supervision and recidivism intervention would be more or less costly than current practices.

If the implementation of evidence-based practices increased the rate of probation and parole success, resulting in fewer individuals being committed to prison or jail due to probation or parole revocation or recidivism, savings could be realized by the State and local units of government through a decrease in resource demands on local court systems, law enforcement, community supervision, and correctional facilities. 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. In the long term, if the decreased intake of prisoners reduced the total prisoner population enough to allow the Department of Corrections to close a housing unit or an entire facility, the marginal savings to State government would be approximately \$34,550 per prisoner per year.

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.