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BILL ANALYSIS



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Senate Bill 283 (Substitute S-3 as reported by the Committee of the Whole)
Sponsor: Senator William Van Regenmorter
Committee: Judiciary

CONTENT

The bill would amend the Public Health Code to allow an alternative sentence for a juvenile convicted as an adult of manufacturing, creating, delivering, or possessing with intent to deliver 650 grams or more of a mixture containing a Schedule 1 or 2 narcotic or cocaine. The mandatory penalty for the offense is imprisonment for life without opportunity for parole.

Under the bill, a juvenile convicted as an adult after either a juvenile court waiver hearing or the direct filing of criminal charges could be sentenced to imprisonment for any term of years, but not less than 25 years, if the court determined by clear and convincing evidence that the best interests of the public would be served by that sentence. (Currently, a juvenile convicted as an adult after a waiver hearing must be sentenced to imprisonment for life without opportunity for parole; a juvenile convicted as an adult after the direct filing of criminal charges may be sentenced either to imprisonment for life without opportunity for parole or to probation and committed to a juvenile facility.) The bill's 25-year minimum sentence would be an additional option.

The bill also would allow a sentencing court to depart from the Code's mandatory sentences for violations involving less than 650 grams, if the person being sentenced were a juvenile tried as an adult after either a waiver hearing or the direct filing of criminal charges and he or she had not previously been convicted of a felony or assaultive crime arising from the same transaction as the violation for which he or she was being sentenced. The current mandatory sentences are: not less than 20 years or more than 30 years for 225 grams or more, but less than 650 grams; not less than 10 years or more than 20 years for 50 grams or more, but less than 225 grams; and not less than one year or more than 20 years, or probation for life, for less than 50 grams.

The bill would apply to offenses committed on or after its effective date and is tie-barred to Senate Bill 281.

MCL 333.7401

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State government.

Since 1990, there have been three juveniles aged 15 or 16 at the time of commitment to the Department of Social Services (DSS) for manufacture and delivery of 650 grams or more of cocaine. During the same time period, there also have been three offenders aged 15 or 16 committed to the Department of Corrections for manufacture and delivery of 650 grams or more of cocaine.

Of the three youths committed to the DSS, two were sentenced through adult court. While the bill would not likely have much effect on probate court cases (since the probate court cannot sentence a juvenile to prison), it is possible that, if judges had a third option as offered by the bill, at least a portion of the adult court commitments to the DSS would, in the future, instead receive a 25-year prison sentence. If one assumes that half of these commitments would under the bill receive a 25-year minimum prison sentence rather than a three- to five-year DSS commitment, in the long term, State costs could increase, given that costs of a three- to five-year DSS commitment would range from \$184,800 to \$394,500 (depending on level of confinement and length of stay) while a 25-year minimum prison sentence would cost approximately \$500,000.

In addition, one might expect that a certain portion of the annual juvenile commitments to prison for manufacture or deliver of at least 650 grams would, under the bills, receive a minimum 25 years instead of receiving a mandatory life sentence. If one assumes that a portion of the annual (DOC) commitments for this crime, or roughly one per year, received a 25-year minimum rather than a life sentence, in the long term (after 25 years) costs of incarceration would begin to decrease. However, given the relatively low number of annual admissions to either a DSS facility or prison, the fiscal impact on the State as a result of the bill is not expected to be significant.

If the new provisions in the bill that allow departures from mandatory prison sentences resulted in decreased prison admissions, cost for the Department of Corrections would be reduced. Existing language, however, allows departure for substantial and compelling reasons, and judges may already be viewing the lack of a prior felony or assaultive crime as compelling a reason to depart from a mandatory term of incarceration.

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