

Legislative Analysis



PAROLE FACT-FINDING HEARING: ATTORNEY

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Senate Bill 1495

Sponsor: Sen. Alan L. Cropsy

House Committee: Judiciary

Senate Committee: Judiciary

Complete to 12-8-06

A SUMMARY OF SENATE BILL 1495 AS PASSED BY THE SENATE 11-30-06

The bill would amend the Corrections Code (MCL 791.240a) to provide for the appointment of legal counsel for an indigent parolee in a fact-finding hearing on charges of a parole violation.

Under the code, within 45 days after a paroled prisoner has been returned or is available for return to a state correctional facility because he or she has been accused of a parole violation (other than a conviction for a felony or misdemeanor punishable by imprisonment), the parolee is entitled to a fact-finding hearing before one member of the parole board or an attorney hearings officer designated by the chairperson of the parole board. The code specifies that an accused parolee may be represented by an appointed or retained attorney. Under the bill, the accused parolee could be represented by a retained attorney or an attorney appointed as described below.

Under the bill, if before the fact-finding hearing begins, the accused parolee, alleges that he or she is indigent and requests an attorney to be appointed, the parole board member or attorney hearings officer who is to conduct the hearing must determine whether the accused is indigent. If the accused parolee is determined to be indigent, the board member or hearings officer would appoint an attorney to represent the parolee at the fact-finding hearing. The cost of the appointed attorney would have to be paid from the general operating budget of the Department of Corrections (DOC).

FISCAL IMPACT:

Because the bill would put current policy in statute, it would have no fiscal impact on the Department of Corrections.

BACKGROUND INFORMATION:

It is the current practice of the Department of Corrections to appoint an attorney to represent an indigent parolee at a fact-finding hearing after a parole violation. Reportedly, the Office of Attorney General believes that an old ruling requires that attorneys for the indigent be appointed by the court. Apparently, the circuit court is not interested in making the appointments. The legislation would amend the law to give the DOC statutory authority to continue to make these appointments.

POSITIONS:

The Department of Corrections indicated support for the bill. (12-6-06)

The State Court Administrative Office (SCAO) indicated support for the bill. (12-6-06)

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