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BILL



ANALYSIS

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Senate Bill 1141 (Substitute S-2 as reported)
Senate Bill 1179 (Substitute S-1 as reported)
Sponsor: Senator John Proos
Committee: Appropriations

CONTENT

Senate Bill 1141 (S-2) would create the "Probation Swift and Sure Sanctions Act" within the Code of Criminal Procedure to do the following:

- Express a legislative intent to create a voluntary State program at the local level to fund swift and sure probation supervision of felons placed on probation.
- Create the State Swift and Sure Program and identify its objectives.
- Require the State Court Administrative Office (SCAO) to provide grants to fund programs of swift and sure probation supervision in the circuit court, subject to appropriations.
- Specify requirements that a funded program would have to meet.
- Require the SCAO to review funded programs annually and report to the Legislature.

Senate Bill 1179 (S-1) would amend the Revised Judicature Act to require that revenue from Court of Appeals filing and motion fees be used for the purposes of the Swift and Sure Sanctions Program.

The bills are tie-barred. Senate Bill 1141 (S-2) is described in more detail below.

The bill states the Legislature's intent to create a voluntary State program to fund swift and sure probation supervision at the local level. The program would be based on the immediate detection of probation violations and the prompt imposition of sanctions for detected violations. The State Swift and Sure Sanctions Program would be created with the following objectives:

- Probationers (the participants in the program) would be aware of their probation terms and the consequences for violating those terms.
- Probationers would be closely monitored and detected violations would be promptly addressed by the court.
- Probationers would be arrested as soon as a violation had been detected and taken before a judge for a hearing.
- Probationers would be sentenced with prescribed terms of probation meeting the objectives of the proposed Act; continued violations would be addressed with increased sanctions.
- Probationers would have to be treated uniformly throughout the State to the extent possible considering local resources.

By January 1, 2013, the State Court Administrative Office would have to begin providing grants to fund programs of swift and sure probation supervision in the circuit court that met the objectives and requirements set forth in the bill. Local courts could apply for these grants via written application in a manner required by SCAO, but any grant availability would be subject to appropriation.

Any Swift and Sure Probation Supervision Program receiving a grant would have to do all of the following:

- Require the court to inform the probationer, in person, of the probation requirements and associated sanctions or remedies.
- Require the probationer to have an initial in-person meeting with a probation officer or agent and as otherwise required by the court.
- Provide for the judicial review of any probation violation as soon as possible, but always within 72 hours unless departure from the 72-hour requirement was for good cause (as established by the SCAO).
- Provide for the immediate imposition of SCAO-approved sanctions and remedies, which could include, but would not be limited to: temporary incarceration; extension of the supervision period; additional reporting and compliance requirements; drug and alcohol testing; treatment and counseling for emotional, mental health, or substance abuse problems; or probation revocation.

The SCAO would be allowed to establish eligibility requirements for offender participation, require participating courts to have offenders enter into a written participation agreement, create mandatory or recommended sanctions and remedies to be used by participating courts, and establish criteria for deviating from prescribed sanctions when necessary to address special circumstances. The SCAO also could create a system for participating courts to use in determining when to use the various sanctions and remedies. When establishing the eligibility requirements and initial programming, the SCAO would be required to consult with the Department of Corrections.

The SCAO would have to review programs receiving grants annually to ensure that they were effective and in compliance with the requirements of the proposed Act. Findings of this review would have to be reported to the Secretary of the Senate and the Clerk of the House of Representatives by February 1 each year. Funded programs also would be subject to audit as provided by law.

"Probationer" would mean an individual placed on probation for committing a felony, and "circuit court" would include a unified trial court with jurisdiction over probationers.

MCL 600.321 (S.B. 1179)

BACKGROUND

These bills would provide statutory guidance for the Swift and Sure Sanctions Program, but the program itself is not entirely new. In the fiscal year (FY) 2011-12 budget (in the article on the Judiciary), the State Court Administrative Office was provided \$1.0 million for the purposes of administering a pilot program. The table below shows the four courts that participated in the pilot program and the amounts they were awarded.

County	Amount
Isabella	\$351,844
Berrien	\$199,978
Barry	\$263,186
Wayne	\$184,992

Judges and court administrators in some of these counties have been working with the State Court Administrative Office and the bill sponsors to provide input into the drafting of this legislation. Both the pilot programs and this legislation are based in part on the Hawaii Honest Opportunity with Probation Enforcement (HOPE) Program.

In the FY 2012-13 budget (Judiciary article), the "pilot" status was removed from the program and the appropriation was increased from \$1.0 million to \$6.0 million. This increase will allow the State Court Administrative Office to expand grant opportunities to several additional courts.

FISCAL IMPACT

Senate Bill 1141 (S-2) would task the State Court Administrative Office with establishing procedures and administering the grant program, but the actual amount of grant funding available would be contingent upon appropriations. Therefore, the bill, by itself, would have a limited fiscal impact on State and local government. The costs to the State directly attributable to the bill would be in the form of added administrative work for the State Court Administrative Office. Local courts, if they applied to participate, also could bear a marginal increase in administrative costs, and local judges (whose salaries are already paid by the State and are set in statute) would effectively be making an in-kind contribution of their time due to the intensive nature of the oversight required on their part under the program.

The main fiscal impact of the Swift and Sure Sanctions Program, and the number and extent of local courts that participated, would be contingent upon appropriations. The actual appropriations for this program are described in the background section above. Of the \$6.0 million provided for the program in the FY 2012-13 budget, boilerplate language allows for up to \$100,000 to be used for State Court Administrative Office administrative costs.

Senate Bill 1179 (S-1) would have no direct fiscal impact; however, it would restrict the possible uses of a particular restricted revenue source. For FY 2012-13, the Court of Appeals filing and motion fees were appropriated at an amount of \$1.7 million. However, State Court Administrative Office finance staff estimate that actual collections realized will be closer to \$1.4 million. That budget bill made a fund shift that resulted in those fees being directed to the Swift and Sure Sanctions Program, and the Court of Appeals (which previously received its own fees as part of its funding stream) was funded entirely with General Fund/General Purpose dollars. The net result of that fund shift is that if a shortfall occurs in the filing and motion fees restricted revenue source, it will reduce the spending authority of the Swift and Sure Sanctions Program, not the Court of Appeals. Given the anticipated \$300,000 shortfall, the actual funding available to the Swift and Sure Sanctions Program is likely to be closer to \$5.7 million rather than \$6.0 million.

The legislation is designed to reduce the number of felony probationers who have their probation revoked and therefore get sent to State correctional facilities. To the extent that the program was successful and resulted in the incarceration of fewer felony probationers, there could be long-run indeterminate savings to the Department of Corrections.

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