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Senate Bills 861 through 863 (as amended on Third Reading)
Senate Bill 864 (Substitute S-1 as amended on Third Reading)
Sponsor: Senator Jeff Irwin
Committee: Civil Rights, Judiciary, and Public Safety

CONTENT

Senate Bill 861 would amend the Corrections Code to do the following:

- Allow the Michigan Department of Corrections (MDOC) to award eligible prisoners productivity credits which could be deducted from a prisoner's minimum and maximum sentence to determine the prisoner's parole eligibility date and discharge date.
- Prescribe eligibility requirements to earn productivity credits.
- Prescribe the amount of productivity credits, in days, that a prisoner could earn by participating in educational, vocational, or MDOC-approved programs.

Senate Bill 862 would amend the Crime Victim's Rights Act to require a prosecuting attorney to include in a victim's request for information whether the defendant or juvenile could be eligible to earn productivity credits as proposed by Senate Bill 861.

Senate Bill 863 would amend the Code of Criminal Procedure to specify that an offender who received certain enhanced penalties for an offense other than a major controlled substance offense before the bill's effective date and was subject to disciplinary time would not be eligible for parole until the prisoner served his or her minimum sentence.

Senate Bill 864 (S-1) would amend the Corrections Code to do the following:

- Require parole to be subject to minimum time served less productivity credits for a prisoner subject to disciplinary time after the bill's effective date.
- Specify that a prisoner sentenced before the bill's effective date would not be eligible for an adjustment to the prisoner's minimum and maximum sentence based on productivity credits proposed by Senate Bill 861.

Senate Bill 864 is tie-barred to Senate Bill 861. Each bill would take effect January 1, 2026.

Proposed MCL 800.33a (S.B. 861)
MCL 780.763 & 780.791 (S.B. 862).
769.12 (S.B. 863)
791.233 et al. (S.B. 864)

BRIEF RATIONALE

As of 2023, the Michigan prison population was approximately 32,000 individuals.¹ According to testimony before the Senate Committee on Civil Rights, Judiciary, and Public Safety

¹ "Report to the Legislature March 2024", MDOC. <https://www.michigan.gov/corrections/-/media/Project/Websites/corrections/Files/Legislative-Reports/2024/Prison-Population-Projection-Report.pdf?rev=af37b600da63458199f351cd159d1c35&hash=F4AE3345C4F7182B24B6F18CB77F23E6>. Retrieved 12-4-24.

incentivizing incarcerated individuals to complete rehabilitation, education, and vocational training can reduce recidivism and better prepare those individuals to reenter society, creating safer communities. Accordingly, it has been suggested to incentivize those individuals to participate in programs by offering a capped amount of time toward earlier consideration for release.

FISCAL IMPACT

The bills would have an indeterminate but likely positive fiscal impact, saving the State an estimated \$35,000 per eligible prisoner, assuming the maximum number of prisoners participated in eligible programming and attained the average maximum days of productivity credits. The bills would allow productivity credits to be applied to the sentences of prisoners convicted of specified qualifying offenses. The application of productivity credits would reduce the sentences for eligible prisoners leading to a savings for the State.

The 2020 MDOC Statistical Report estimated the average minimum sentence was 4.5 years, or 1,643 days. The maximum productivity credits that could be granted are 20% of the minimum sentence, equating to an average maximum reduction of days served of 329 days.

The MDOC estimates about 60% of the total prison population would qualify for productivity credits under the bills' provisions. The most recent monthly prison census report from the MDOC lists the population at just under 33,000, thus an estimated 19,800 prisoners would be eligible for productivity credits.

Based on the estimated 19,800 prisoners that would be eligible for productivity credits, and the average maximum reduction of 329 days, the total number of days reduced would total approximately 6.5 million. The average per diem cost for a prisoner housed in a Level 1 facility is \$106, equating to an estimated savings per prisoner of \$35,000 based on the average reduction in sentence of 329 days.

It is important to note that savings would not be realized until approximately 4.5 years after enactment of the bills based on the average sentence, excluding productivity credits.

Date Completed: 12-9-24

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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.