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BILL ANALYSIS



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Senate Bill 534 (as introduced 9-24-19)
Sponsor: Senator Peter J. Lucido
Committee: Judiciary and Public Safety

Date Completed: 12-4-19

CONTENT

The bill would amend Chapter 8 (Trials) of the Code of Criminal Procedure to allow a defendant in a misdemeanor case to offer an insanity defense to an alleged offense, and require him or her to follow the procedure currently prescribed in the Code for a defendant offering an insanity defense in a felony case.

The Code specifies that if a defendant in a felony case proposes to offer in his or her defense testimony to establish his or her insanity at the time of an alleged offense, he or she must file and serve on the court and the prosecuting attorney a notice of his or her intention to assert the defense of insanity at least 30 days before the date set for the trial, or at such other time as the court directs.

After receiving a notice of an intention to assert an insanity defense, a court must order the defendant to undergo an examination relating to his or her claim or insanity by personnel of the Center for Forensic Psychiatry or by other qualified personnel, as applicable, for a period no longer than 60 days from the date of the order. The defendant may, at his or her own expense, secure an independent psychiatric evaluation by a clinician of his or her choice on the issue of his or her insanity at the time the alleged offense was committed. The defendant must fully cooperate in his or her examination by personnel of the Center for Forensic Psychiatry or other qualified personnel, and by any other independent examiners for the defense or prosecution, as applicable.

Under the bill, these provisions also would apply to a defendant in a misdemeanor case who proposed to offer in his or her defense testimony to establish his or her insanity at the time of an alleged offense.

The bill would take effect 90 days after its enactment.

MCL 768.20a

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bill could have a negative impact on local units of government as the bill would expand the use of an insanity defense, which currently applies only to felony cases, to misdemeanor cases. If a defendant asserts a defense of insanity, the court orders the defendant to undergo an examination relating to the claim of insanity by personnel of the Center for Forensic Psychiatry, or other qualified personnel. The defendant may, at his or her own expense, secure an independent psychiatric evaluation.

The defendant pays the cost of the evaluation unless he or she is declared indigent. If a defendant is declared indigent and has asserted an insanity defense, the court may, upon showing good cause, order the county to pay for the independent psychiatric evaluation.

Per the most recent data for 2018, there were an estimated total of just under 742,000 misdemeanor cases that passed through the State's district courts. Of those cases, an estimated 280,00 were for nontraffic offenses while nearly 462,000 were for traffic offenses. If only 5% of the nontraffic cases chose to use an insanity defense, the number of additional cases referred for a psychiatric evaluation could total an estimated 23,100 cases annually. For defendants declared indigent, those costs would be paid by the county in which the district court ordering the evaluation was located and would be paid out of the general fund of the county that ordered the evaluation for that case.

No data are available as to the number of "not guilty" pleas entered because of the insanity defense statewide or at the individual county level.

The bill would have an indeterminate negative fiscal impact on the Department of Health and Human Service due to increased demand for examinations by staff at the Center for Forensic Psychiatry or other qualified professionals. The actual fiscal impact would depend on the increase in assertions of the defense of insanity as a result of allowing the defense for misdemeanor offenses.

Fiscal Analyst: Ellyn Ackerman
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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.