

DRUG SENTENCING REVISIONS



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FISCAL ANALYSIS

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HOUSE BILL 5394 Substitute (H-3)
HOUSE BILL 5395 Substitute (H-2)
HOUSE BILL 6510 as introduced

FLOOR ANALYSIS - 12/3/02
Analyst(s): Marilyn Peterson

Sponsor: Rep. Bill McConico
Committee: Criminal Justice

SUMMARY

The bills constitute a package of legislation that would revise sentencing for two major groups of controlled substances offenses: manufacture or delivery of narcotics or cocaine (MCL 333.7401), and possession of narcotics or cocaine (MCL 333.7403). In general, the bills would:

- Eliminate "mandatory" minimum terms of imprisonment, and provide for parole eligibility for offenders sentenced prior to the bills' effective date (HB 5394 and HB 6510).
- Increase the threshold amounts by which various offenses are distinguished (HB 5394).
- Allow, rather than require, consecutive sentencing for affected drug offenders (HB 5394).
- Provide for fines to be imposed as all or part of a sentence (HB 5394).
- Eliminate lifetime probation as a sentencing option, and provide for those who have served at least five years on lifetime probation to be released from probation (HBs 5394 and 5395).
- Change sentencing guidelines scoring to increase the number of points scored for certain offense variables, which, for affected offenders, would tend to increase the length of the minimum sentences recommended by sentencing guidelines and tend to increase the number of prison sentences (HB 5395).

Overall, the bills would have an indeterminate fiscal impact on the state and local units of government, depending on how they affected prosecutorial charging practices, the numbers of prisoners released on parole, the size of the parole and probation caseload, and the length of time served by newly-sentenced offenders. Data provided by the Department of Corrections (MDOC) suggest that the proposed changes in offense variable scoring could gradually increase bed space needs by roughly 100 beds after the fifth year of implementation.

Given available data, it is unclear to what extent trends toward additional bed space needs would be offset by increased movement of prisoners to parole, elimination of mandatory consecutive sentencing, elimination of lifetime probation, and higher threshold amounts for the various offenses. Data regarding these other aspects of the legislation is limited. According to the MDOC, elimination of mandatory consecutive sentencing for newly-sentenced offenders could gradually reduce prison bed space needs by up to 286 beds in five years, and up to 465 beds in 40 years; this impact would be offset to the extent that consecutive sentencing continued to be utilized as a sentencing option. Also, the MDOC has estimated the total number of offenders on lifetime probation to be 4,000 to 4,500; although data suggest that use of lifetime probation has been increasing in recent years, it is not clear how many of the offenders currently on lifetime probation have served at least five years, or how many of the probation violators coming to prison are lifetime probationers who have been on probation for more than five years.