

Legislative Analysis



FIRST-DEGREE CSC: LIFE WITHOUT PAROLE

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Senate Bill 709 (Substitute H-2)
Sponsor: Sen. Tony Stamas

Senate Bill 718 (Substitute H-1)
Sponsor: Sen. Jud Gilbert, II

Senate Bill 717 (Substitute H-1)
Sponsor: Sen. Laura M. Toy

Senate Bill 1122 (Substitute H-1)
Sponsor: Sen. Alan Sanborn

House Committee: Judiciary
Senate Committee: Judiciary

Complete to 5-9-06

A SUMMARY OF SENATE BILLS 709, 717, 718, AND 1122 AS REPORTED BY HOUSE COMMITTEE 5-3-06

The bills would amend various acts to require a sentence of life imprisonment without parole for the crime of first-degree criminal sexual conduct (CSC) under certain circumstances. All of the bills are tie-barred to each other and to House Bills 5421, 5422, 5531, and 5532. The bill package would take effect 90 days after enactment. Specifically, the bills would do the following:

Senate Bill 709 would amend the Michigan Penal Code (MCL 750.520b) to require a sentence of life imprisonment without parole eligibility for a violation committed by a person 17 years of age or older against an individual less than 13 years of age if the offender had previously been convicted of first-, second-, third-, or fourth-degree CSC or assault with attempt to commit CSC against an individual less than 13 years of age, or a substantially conforming law of the United States, another state, or a political subdivision of another state.

The current penalty of imprisonment for life or for any term of years would still apply to first-degree CSC offenses that did not meet the criteria described above.

Senate Bill 717 would amend the sentencing guidelines portion of the Code of Criminal Procedure (MCL 777.16y) to specify that a violation of MCL 750.520b(2)(a) — first-degree CSC excluding offenses described in Senate Bill 709 — would have a statutory maximum term of imprisonment of life. Also, a violation of Section 520n (to be created by House Bill 5531), which provides for life-time monitoring with electronic devices for certain CSC offenses, would be a Class G felony against public safety with a maximum term of imprisonment of two years.

Senate Bill 718 would amend the Corrections Code (MCL 791.234) to revise and clarify provisions regarding parole eligibility. Generally speaking, depending on the date the

crime was committed, a prisoner is eligible for parole and therefore subject to the jurisdiction of the parole board after serving 10 or 15 years of his or her sentence.

Prisoners sentenced to life for certain offenses, such as first degree murder, are not eligible for parole. Under the bill, the current provision would be deleted and replaced with language clarifying that such prisoners are not eligible for parole and are instead subject to the provisions of Section 44. In addition to the offenses currently cited in law, the bill would add first-degree CSC violations described in Senate Bill 709.

(Under Section 44 of the code, one member of the parole board must interview a prisoner serving a sentence for murder in the first degree, or any sentence of imprisonment without parole, at the conclusion of 10 calendar years and subsequently as determined appropriate by the parole board until such time as the prisoner is granted a reprieve, commutation, or a pardon by the governor, or is deceased. The section also provides a mechanism by which the parole board can initiate reviews of a prisoner's case or review a case upon receiving an application for a reprieve, commutation, or pardon.)

Senate Bill 1122 would amend the Corrections Code (MCL 791.236) to specify that, if a parolee convicted of first- or second-degree criminal sexual conduct (CSC), other than a parolee subject to lifetime electronic monitoring under Section 85 of the code, were placed on parole, the parole board could require that the parolee be subject to electronic monitoring. The electronic monitoring would have to be conducted in the same manner, and be subject to the same requirements, as described in Section 85 and in Section 520n of the Michigan Penal Code, except that the electronic monitoring would have to continue only for the duration of the term of parole, and a violation by the parolee of any of the requirements specified in Section 520n would be a violation of a condition of parole, not a felony violation.

(Section 520n of the Michigan Penal Code is proposed by House Bill 5531. Under that bill, a person convicted of first- or second-degree CSC when he or she was at least 17 years old and the victim was under 13 would have to be sentenced to lifetime electronic monitoring as provided under Section 85 of the Corrections Code. A person sentenced under Section 520n would be guilty of a felony punishable by up to two years' imprisonment and/or a maximum fine of \$2,000 if he or she intentionally removed, defaced, altered, destroyed, or failed to maintain the electronic monitoring device in working order; failed to notify the Department of Corrections (DOC) that the electronic monitoring device was damaged; or failed to reimburse the DOC or its agent for the cost of the monitoring.

House Bill 5532, as passed by the House, would add Section 85 to the Corrections Code. The bill would establish a lifetime electronic monitoring program in the DOC for those sentenced under House Bill 5531. The bills would define "electronic monitoring" as a device by which, through global positioning satellite or other means, an individual's movement and location are tracked and recorded.)

House Bill 5421 would amend the Michigan Penal Code to increase penalties for offenses committed by an offender 17 years of age or older when the victim was under 13 years of age. The bill would make such an offense punishable by a sentence of life or any term of years but would mandate a minimum sentence of 25 years. If the offender had previously been convicted of 1st-, 2nd -, 3rd -, or 4th-degree CSC and had used force, coercion, or a weapon, the sentence would be for life without the possibility of parole. The bill would also provide for lifetime monitoring with a monitoring device for those eligible for parole and allow a court to order that any sentences for crimes arising from the same transaction would be served concurrently.

House Bill 5422 would amend the Corrections Code to specify that offenders sentenced under the provisions of House Bill 5421 that were eligible for parole would be subject to the jurisdiction of the parole board after serving 25 years. If paroled, the parole would be for life.

BACKGROUND:

The bills are part of a package to address crimes committed by sex offenders who target children. As a whole, the bills would increase the penalty for those who target children and who are repeat offenders to life imprisonment without the possibility of parole. Child sex offenders who were paroled would be subject to lifetime monitoring with electronic devices. The bills were spurred by some high-profile crimes last year involving repeat sex offenders who preyed on children and who had failed to register under their states' sex offender registry laws.

FISCAL IMPACT:

To the extent that offenders spent longer periods in prison or under tether supervision, or under more expensive tether supervision, the bills would increase state costs.

Life without Parole

There are no data to indicate how many sex offenders might receive life in prison without the possibility of parole, or how long they might live after commitment to the MDOC.

However, the average age at intake for prisoners committed to the MDOC is about 33 years. Assuming a life expectancy of 65 to 75 years, an average age at intake of 33 years, and an average annual cost of incarceration of about \$30,000, the total cost of incarceration for each prisoner sentenced to life without parole would be roughly \$1.0 to \$1.3 million.

The net cost increase would be less than that, however, and would depend on when the offender otherwise would have been released from prison. There are no data to indicate the average amount of time served by offenders affected by the bills. For each affected prisoner, the state would incur increased annual costs commencing when the prisoner otherwise would have been released but instead remained in prison.

GPS Tether

The Department of Corrections has estimated that costs of GPS tether as contemplated by HB 5532 would be about \$19.50 per offender per day, assuming 20 GPS offenders per agent, and a total of at least 50 GPS units. Annual costs of GPS tether would be about \$7,100 per offender. Costs of non-GPS tether are about \$6 per day or \$2,200 per year for each supervised offender. Thus, increased costs of GPS electronic monitoring compared to non-GPS tether for affected offenders would be about \$4,900 per offender per year. Costs could be offset to the extent that reimbursements were obtained from offenders.

According to the Department of Corrections, in August 2005, there were 740 offenders on parole for 1st or 2nd degree criminal sexual conduct (MCL 333.520b or 333.520c). Of these, 364 were on parole for an offense involving a victim under age 13, and 203 were on parole for an offense involving "multiple variables," which could include a victim under age 13.

POSITIONS:

A representative of the Michigan Department of Corrections indicated support for Senate Bills 717 and 1122. (5-3-06)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.