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BILL



ANALYSIS

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Senate Bill 933 (as passed by the Senate)
Sponsor: Senator John Proos
Committee: Michigan Competitiveness

Date Completed: 8-24-16

CONTENT

The bill would amend Chapter XI (Probation) of the Code of Criminal Procedure to provide for a 30-day maximum period of incarceration for a probationer who committed a technical probation violation, unless he or she had committed five or more such violations.

The bill would define "technical probation violation" as a violation of the terms of a probationer's probation order that is not in and of itself a violation of a law of the State, a political subdivision of the State, another state, or the United States, or of tribal law.

Beginning on January 1, 2017, a probationer who committed a technical probation violation and was sentenced to temporary incarceration in a State or local correctional or detention facility could be incarcerated for not more than 30 days. After serving the period of temporary incarceration, the probationer could be returned to probation under the terms of his or her original probation order or under a new probation order, at the discretion of the court.

This limit on temporary incarceration would not apply to a probationer who had committed five or more technical probation violations.

These provisions would not prohibit the court from revoking a probationer's probation and sentencing the probationer under Section 4 of Chapter XI for a probation violation at any time during the course of probation.

(That section authorizes the sentencing court to revoke probation if, during the probation period, the court determines that the probationer is likely to engage again in an offensive or criminal course of conduct or that the public good requires revocation of probation. Section 4 also specifies that all probation orders are revocable in any manner the court that imposed probation considers applicable either for a violation or attempted violation of a probation condition or for any other type of antisocial conduct or action on the probationer's part for which the court determines that revocation is proper in the public interest. If a probation order is revoked, the court may sentence the probationer in the same manner and to the same penalty as the court might have done if the probation order had never been made. Section 4 does not apply to a juvenile placed on probation and committed to an institution or agency described in the Youth Rehabilitation Services Act.)

The bill would take effect 90 days after its enactment.

Proposed MCL 771.4b

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have no fiscal impact on the State and could have a positive fiscal impact on local government. Any temporary incarceration under the bill would take place in local correctional facilities. A probationer currently may be imprisoned for up to 12 months in a county jail in consecutive or nonconsecutive intervals over the course of his or her probation. The bill would limit the duration of imprisonment for a technical probation violation to not more than 30 days if that person did not have more than four technical violations. If this provision led to fewer days of incarceration for probationers, savings would accrue to local units of government. As costs vary by jurisdiction, the savings to any one jurisdiction would depend on the per-day costs to imprison a person as well as the reduction in incarceration days.

Fiscal Analyst: Ryan Bergan