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## BILL ANALYSIS



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Senate Bill 1027 (as introduced 5-5-22)  
Sponsor: Senator Michael D. MacDonald  
Committee: Judiciary and Public Safety

Date Completed: 6-6-22

**CONTENT**

**The bill would amend Chapter 16 (Miscellaneous Provisions) of the Code of Criminal Procedure to allow for the creation of a supervision program that diverted individuals who were suspected of committing a drug-related criminal offense away from criminal prosecution and into the supervision program before the filing of criminal charges.**

Specifically, under the bill, a prosecutor's office, a law enforcement agency, and a social welfare agency could work in concert to establish a supervision program that diverted individuals who were suspected of committing a drug-related criminal offense away from criminal prosecution and into the supervision program before the filing of criminal charges. A supervision program would have to include appropriate substance use disorder treatment. A supervision program would have to use a case management system that maintained a record of each case that was diverted under the program from inception to disposition. If the prosecutor's office and the social welfare agency agreed that an individual had completed the terms of his or her supervision successfully, he or she could not be prosecuted for the drug-related criminal offense.

"Social welfare agency" would mean a community-based organization offering assistance to individuals in need.

"Drug-related criminal offense" would a misdemeanor or felony violation of the laws of the State, other than an assaultive crime, that is committed by an individual because of that individual's substance use disorder. "Assaultive crime" would include any of the following:

- A violation described in Section 9a of Chapter 10 (New Trials, Writs of Error and Bills of Exceptions) of the Code (see **BACKGROUND**).
- A violation of Chapter 11 (Assaults) of the Michigan Penal Code, not otherwise included in Section 9a of Chapter 10 of the Code of Criminal Procedure.
- A violation of Sections 110a, 136b, 234a, 234b, 234c, 349b, or 411h(2)(a) of the Penal Code (see **BACKGROUND**), or any other violent felony.

"Violent felony" would mean that term as defined in the Corrections Code: an offense against a person in violation of Sections 82, 83, 84, 86, 87, 88, 89, 316, 317, 321, 349, 349a, 350, 397, 520b, 520c, 520d, 520e, 520g, 529, 529a, or 530 of the Penal Code.

Proposed MCL 776.21b

## **BACKGROUND**

Under Section 9a of Chapter 10 of the Code of Criminal Procedure, "assaultive crime" means that term as defined in Section 9a of Chapter 10 (New Trials, Writs of Error and Bills of Exceptions) of the Code of Criminal Procedure: an offense against a person described in Section 81c(3), 82, 83, 84, 86, 87, 88, 89, 90a, 90b(a) or (b), 91, 200 to 212a, 316, 317, 321, 349, 349a, 350, 397, 411h(2)(b) or (3), 411i, 520b, 520c, 520d, 520e, 520g, 529, 529a, 530, or 543a to 543z of the Michigan Penal Code. (Those sections prohibit the following conduct, respectively: assault or assault and battery against a Family Independence Agency employee, felonious assault, assault with intent to commit murder, assault with intent to do great bodily harm less than murder, assault with intent to maim, assault with intent to commit burglary or any other felony, assault with intent to rob and steal (unarmed or armed), intentional assault of a pregnant woman, intentional assault of a pregnant woman that results in miscarriage or stillbirth or great bodily harm to an embryo or fetus, attempted murder, offenses involving explosives or bombs, first- and second-degree murder, manslaughter, kidnapping, prisoner taking person as hostage, leading or carrying away a child under 14, mayhem (intentional disfigurement), stalking a person under 18 years of age, contacting the stalking victim while on probation, first-, second-, third-, and fourth-degree criminal sexual conduct (CSC), assault with intent to commit CSC, larceny and aggravated assault with a dangerous weapon, carjacking, larceny by violence or assault, and committing various acts of terrorism.)

Sections 110a, 136b, 234a, 234b, 234c, 349b, or 411h(2)(a) of the Penal Code prohibit the following conduct, respectively: home invasion, child abuse, intentionally discharging a firearm from motor vehicle, snowmobile, or off-road vehicle, intentionally discharging a firearm at dwelling or potentially occupied structure, intentionally discharging a firearm at an emergency or law enforcement vehicle, unlawful imprisonment, and stalking.

Legislative Analyst: Stephen P. Jackson

## **FISCAL IMPACT**

The bill could have an indeterminate, positive fiscal impact on local trial courts. By providing opportunities for placement into a supervised program instead of proceeding with formal charges, some alleged drug-related offenses would never appear on trial court dockets. This could reduce trial court criminal caseloads, which would save trial courts time and resources. Any savings for trial courts is indeterminate based on the bill's current language.

The bill could result in savings for the Michigan Department of Corrections (MDOC) as successful program participants would avoid incarceration, which would save the State the cost of that incarceration. Currently, the average annual cost to house a prisoner in an MDOC facility is an estimated \$43,000, which includes fixed administrative and operational costs (which are funded with General Fund/General Purpose revenue). The amount of savings for the MDOC is indeterminate and would depend on the number of individuals who would avoid prison by completing the supervision program. However, local libraries could see a decrease in revenue, as any criminal sentences that include a fine would not be imposed if a person completed the program successfully.

The bill's social welfare agency components would have no direct fiscal impact on State or local government. The definition of "social welfare agency" could include entities that receive funding from the State and local units of government; however, since there is no requirement that a directly State-funded department (e.g., Michigan Department of Health and Human Services) or a third-party State-supported entity (e.g., community mental health services programs or community action agency) must participate in a supervision program, there is

no direct fiscal cost. To the extent that programs that currently exist to support individuals who could be served under a supervision program needed additional resources, there could be an indirect cost to the State or local units of government. Also, if the supervision program resulted in a greater number of Medicaid beneficiaries' receiving covered substance use disorder services, there could be an increase in Medicaid costs.

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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.