

PAROLE ELIGIBILITY FOR CERTAIN DRUG OFFENSES

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Senate Bill 72 substitute (S-1) as passed by the Senate
Senate Bill 73 substitute (S-1) as passed by the Senate
Senate Bill 220 as passed by the Senate w/o amendment
Sponsor: Sen. Steven Bieda

Analysis available at
<http://www.legislature.mi.gov>

House Committee: Law and Justice
Senate Committee: Judiciary
Complete to 11-6-17

SUMMARY:

As a package, the bills would abolish the mandatory life sentence without parole imposed for a second or subsequent conviction for the manufacture/delivery/possession with intent to deliver or simple possession of certain amounts of a Schedule 1 or 2 narcotic or cocaine and create a mechanism by which a person convicted and sentenced under those laws could be eligible for parole after serving 5 years for that sentence.

Tie-bars: Senate Bills 72 and 73 are tie-barred to each other and Senate Bill 202 is tie-barred to Senate Bill 73. A bill that is tie-barred to another cannot become law unless the bill to which it is tie-barred is also enacted.

Effective date: Each of the bills would take effect 90 days after enactment.

Legislation enacted in the closing days of the 2001-2002 Legislative Session eliminated most of Michigan's mandatory life sentences without parole for the unlawful manufacture, delivery, or possession with the intent to deliver certain amounts of Schedule 1 and 2 narcotics and cocaine and also for possession for personal use of the same drugs and created a mechanism by which persons sentenced under the mandatory life provisions could become eligible for parole. However, a second or subsequent conviction of certain drug-related crimes still requires a judge to impose a mandatory life sentence without the possibility of parole. The bill package would address the issue as follows:

Senate Bill 73 would amend the Public Health Code (MCL 333.7413). Currently, a second or subsequent conviction for a violation of any of the following offenses requires a court to sentence a person to life without eligibility for probation, suspension of the sentence, or parole:

- Manufacturing, creating, delivering, or possessing with the intent to do any of those of a mixture containing a Schedule 1 or 2 narcotic or cocaine in the amount of 450 grams or more but less than 1,000 grams [Section 7401(2)(a)(ii)] or 50 grams or more but less than 450 grams [Section 7401(2)(a)(iii)].
- Knowingly and intentionally possessing a mixture containing a Schedule 1 or 2 narcotic or cocaine in the amount of 450 grams or more but less than 1,000 grams

[Section 7403(2)(a)(ii)] or 50 grams or more but less than 450 grams [Section 7403(2)(a)(iii)].

- Conspiracy to commit one of the violations described above.

The bill would delete this penalty provision.

Senate Bill 72 would add a new provision to the Corrections Code (MCL 791.234). Under the bill, a prisoner who had been convicted of an offense listed above and sentenced to life without parole under Section 7413 of the Public Health Code (the provision proposed to be eliminated by Senate Bill 73) as it existed before Senate Bill 72 were enacted, would be eligible for parole after serving 5 years of each sentence imposed for that violation.

Senate Bill 202 would amend the sentencing guidelines portion of the Code of Criminal Procedure to make a technical change to a citation regarding terms of imprisonment for subsequent controlled substance violations necessitated by the changes proposed by Senate Bill 73 (MCL 777.18).

FISCAL IMPACT:

Depending on the number of individuals convicted of first, second, or subsequent offenses, but receiving reduced prison sentences, Senate Bills 72 and 73 could result in reduced costs for the state. The bills would have no fiscal impact on local units of government. A reduction in the length of prison sentences would result in reduced costs related to incarceration. In fiscal year 2016, the average cost of prison incarceration in a state facility was roughly \$36,000 per prisoner, a figure that includes various fixed administrative and operational costs.

Senate Bill 220 amends sentencing guidelines and does not have a direct fiscal impact on the state or on local units of government.

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