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Senate Bill 377 (Substitute S-1 as passed by the Senate)  
Sponsor: Senator Ed McBroom  
Committee: Civil Rights, Judiciary, and Public Safety

Date Completed: 6-26-23

## **CONTENT**

**The bill would amend the Code of Criminal Procedure to prescribe the responsibilities of the Michigan Sentencing Commission, including the following:**

- **Collecting, preparing, analyzing, and disseminating information on sentencing and release policies.**
- **Researching and reporting on sentencing guidelines and efforts to reduce the likelihood that a convicted individual would reoffend.**
- **Considering sentencing guidelines in relation to the offense, the victim input, the offender's blameworthiness, the likelihood of recidivism, the elimination of inequities, and the guidelines' efficacy, among other criteria.**
- **Developing and recommending modifications to sentencing guidelines based on the Commission's considerations.**
- **Reporting certain recommendations to the Legislature.**

The bill is tie-barred to Senate Bill 376, which would create the Commission and prescribe its membership.

The bill would require the Commission to do the following:

- Collect, prepare, analyze, and disseminate information regarding State and local sentencing and release policies.
- Conduct ongoing research regarding the effectiveness of the sentencing guidelines in achieving modifications to the sentencing guidelines.
- In cooperation with the MDOC, collect, analyze, and compile data and make projections regarding the populations and capacities of State correctional facilities, the impact of the sentence guidelines, and the effectiveness of the efforts to reduce recidivism.
- Consider the suitability and impact of offense variable scoring regarding victims and victims' families and victim input and advice regarding sentences.

A measurement of recidivism would have to include, as applicable, an analysis of resentencing rates and return-to-prison rates and yearly intervals for the first four years after exiting a prison or jail and after entering probation.

Additionally, the Commission would have to develop recommended modifications to the sentencing guidelines. Any modifications to the sentencing guidelines would have to accomplish the following:

- Provide for the protection of the public.
- Consider offenses that involved violence against a person or serious and substantial pecuniary loss as more severe than other offenses.
- Be proportionate to the seriousness of the offense and the offender's prior criminal record.

- Reduce sentencing disparities based on factors other than offense characteristics and ensure that offenders with similar offense characteristics received substantially similar sentences.
- Specify the circumstances under which a term of imprisonment was proper and the circumstances under which intermediate sanctions were proper.
- Establish sentence ranges for imprisonment that the Commission considered appropriate and were permitted by law.

#### Report and Recommendations to the Legislature

In developing modifications to the sentencing guidelines, the Commission would have to submit to the Legislature a prison and jail impact report relating to any modifications to the sentencing guidelines. The report would have to include the projected impact on total capacity of State and local correctional facilities. Modifications to sentencing guidelines would have to include recommended intermediate sanctions for each case in which the upper limit of the recommended minimum sentence range was 18 months or less.

The Commission could recommend modifications to any law that affected sentencing or the use and length of incarceration. The Commission would be prohibited from making recommendations that would change the body of enumerated criminal offenses as defined by the Legislature. Additionally, the Commission could not make a recommendation that would retroactively change existing sentencing guidelines already imposed on an individual. Under the bill, the recommendations would have to reflect the following policies:

- To render sentences in all cases within a range of severity proportionate to the gravity of offenses, victim input, and the blameworthiness of an offender.
- When reasonably feasible, to achieve offender rehabilitation, general deterrence, incapacitation of dangerous offenders, restoration of crime victims and communities, and reintegration of offenders into the law-abiding community.
- To render sentences no more severe than necessary to achieve the applicable purposes described above.
- To preserve judicial discretion to individualize sentences within a framework of law.
- To produce sentences that were uniform in their reasoned pursuit of the purposes of the Commission.
- To eliminate inequities in sentencing and length of incarceration across population groups.
- To promote research on sentencing policy and practices, including assessments of the effectiveness of criminal sanctions as measured against their purposes.

The Commission would have to submit any recommended modifications to the sentencing guidelines or to other laws to the Senate Majority Leader, the Speaker of the House of Representatives, and the Governor.

By December of each year, the Commission would have to submit to the Legislature, the Governor, and the Michigan Supreme Court a report on the implementation of legislative policies adopted in the current legislative session affecting the criminal justice system. The report would have to include at least the following:

- Education of practitioners on changes in legislative policy, including changes in criminal statutes and an analysis of the expected impact of those changes on prison and jail populations and the average length of the sentences imposed.
- The length of probation supervision terms imposed.
- The number of noncompliance, risk, and major risk sanctions imposed on the probation population.

Proposed MCL 769.34b

## **BRIEF RATIONALE**

According to testimony, Michigan's current sentencing guidelines were established in the late 1990's. In the early 2000's, a commission similar to the one proposed by Senate Bill 376 (S-3) evaluated the guidelines' effectiveness. That commission was disbanded in 2004. Some people have concern that the prevailing attitudes toward crime and rehabilitation can influence sentencing guidelines' severity at the time of their establishment, and so it has been suggested that the Commission be created to regularly evaluate sentencing guidelines in the State.

Legislative Analyst: Tyler P. VanHuyse

## **FISCAL IMPACT**

The bill could indirectly affect the costs for the State and local units of government. Depending on decisions and changes made by the Commission, costs could increase or decrease, depending on the changes made to sentencing.

Changes to misdemeanor conviction sentences could affect county jail and local probation supervision costs, which vary by jurisdiction. These costs could increase or decrease depending on the changes made to sentencing and are thus indeterminate. Based on 2022 data, the average cost to State government for felony probation supervision is approximately \$4,800 per probationer per year. Similarly, for the State, a change in in prison intakes could affect the cost of housing a prisoner in a State correctional facility. Currently, the per diem rates for housing a prisoner in a State correctional facility ranges from \$98 to \$192 per day, depending on the security level of the facility. Additionally, any changes to associated fine revenue would affect funding to public libraries.

Fiscal Analyst: Joe Carrasco, Jr.

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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.