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PAROLE APPEALS VENUE

House Bill 5434 as enrolled
Public Act 345 of 1994
Second Analysis (1-10-95)

Sponsor: Rep. Michael E. Nye
House Committee: Judiciary
Senate Committee: Judiciary

THE APPARENT PROBLEM:

The corrections code (Public Act 232 of 1953) allows the parole board's grant or denial of parole to be appealed to the circuit court, by leave of the court. This language predates 1992 parole reforms (Public Act 181 of 1992) that, among other things, explicitly specified that an appeal may be brought by the prisoner, the prosecutor for the county from which the prisoner was committed, or the victim of the crime for which the prisoner was convicted. (Although many believe that the 1992 changes newly extended standing to appeal to victims and prosecutors, at the time the 1992 law was enacted, prosecutors were challenging proposed paroles in appeals filed in Wayne County, and perhaps other counties as well.)

As both the Administrative Procedures Act and the Revised Judicature Act provide for administrative appeals to be brought in either the appellant's home county or in Ingham County, there are concerns that Ingham County may find itself overburdened by increases in appeals that may be generated by both the 1992 parole reforms and the concerns arising from several well-publicized cases involving violent crimes committed by parolees. Legislation has been proposed to direct those appeals to the county in which the prisoner was convicted.

THE CONTENT OF THE BILL:

The bill would amend Public Act 232 of 1953 (MCL 791.234) to specify that an appeal of the parole board's decision to grant or deny parole be brought in the circuit court in the county from which the prisoner was committed (language allowing appeals by leave of the court would be retained). The bill would take effect January 1, 1995; however, the bill also would specify that provisions regarding prisoners subject to disciplinary time would take effect on the effective date of Public Act 217 of

1994 (these provisions were added by Public Act 217, which was part of the "truth-in-sentencing" legislation).

FISCAL IMPLICATIONS:

With regard to a similar bill (Senate Bill 1179) introduced last session, the Senate Fiscal Agency said that the bill would have no fiscal impact on the state, and that some local courts could face increased workloads due to additional appeals, while others could experience a reduction. (11-18-92)

ARGUMENTS:

For:

By directing a parole-related appeal to the circuit court in the county from which the prisoner was committed, the bill would ensure that the judicial burdens of parole appeals are distributed fairly across the state. Otherwise, Ingham County Circuit Court, which is a common venue for administrative appeals, could find itself overburdened by parole appeals.

Against:

Many may find current law, which allows administrative appeals to be brought either in the appellant's home county or in Ingham County, to be adequate. Parole board figures indicate that appeals are not great in number (fewer than 200 per year, by prosecutors and prisoners combined), nor have they greatly increased following the 1992 parole reforms (a quick check of computer records indicated that the number of prisoner appeals rose from 122 in 1992 to 161 in 1993, while prosecutor appeals rose from 5 to 11). Moreover, there is something to be said for maintaining Ingham County, which has a bench already experienced in

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