

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bills 555-557 and 559-565 (as reported without amendment)

Senate Bill 558 (as reported with amendment)

Sponsor: Senator Philip E. Hoffman (S.B. 555, 558, 565)

Senator Mike Rogers (S.B. 556, 557, 559)

Senator Loren Bennett (S.B. 560, 561, 563)

Senator Joel D. Gougeon (S.B. 562, 564)

Committee: Education

Date Completed: 2-9-98

RATIONALE

A program to deny Federal benefits to drug traffickers and possessors was established in 1988 with the enactment of the Federal Comprehensive Drug Abuse Prevention and Control Act. Under the program, Federal and state courts may deny selected benefits available from the Federal government, including student financial aid, to persons convicted of drug trafficking or possession. Some people believe that persons who are convicted of such an offense under State or Federal law also should be ineligible for State financial aid benefits in Michigan.

CONTENT

Senate Bills 555 to 564 would amend various Acts that provide financial aid for students enrolled in postsecondary institutions, to make ineligible for that aid a person who was subject to a court order denying a Federal benefit due to the conviction of any State or Federal offense for the distribution or possession of controlled substances. The person would not be eligible for the financial aid for the duration of the court order. The bills refer to Federal benefits as described in the Federal Comprehensive Drug Abuse Prevention and Control Act.

Senate Bill 565 would amend the Code of Criminal Procedure to require the State Court Administrator's Office, not more than 30 days after the bill's effective date and at least annually thereafter, to provide to all trial courts with jurisdiction over criminal prosecutions involving possession or distribution of controlled substances, information on the

denial of Federal benefits and on the option, under Federal law, of including this denial in sentencing for a State offense.

(Under the Comprehensive Drug Abuse Prevention and Control Act, "Federal benefit" means the issuance of any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States. "Federal benefit" does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility.)

Senate Bills 555 to 564 would amend the following Acts, respectively: Public Act 208 of 1964, which provides for scholarships to students enrolled in postsecondary education institutions; Public Act 313 of 1966, which provides tuition grants to resident students enrolled in independent nonprofit institutions of higher learning; Public Act 105 of 1978, which provides for grants to students enrolled in independent nonprofit institutions of higher learning; the Legislative Merit Award Program Act; Public Act 303 of 1986, which establishes a Michigan work-study program for qualified resident students; Public Act 288 of 1986, which establishes a Michigan work-study program for qualified resident students; Public Act 273 of 1986, which establishes a Michigan educational opportunity grant program; Public Act 102 of 1986, which establishes a grant program for certain part-time independent students; Public Act 174 of 1976, which provides for free tuition for State resident North American Indians in Michigan; and, the

Higher Education Loan Authority Act.

MCL 390.974 et al. (S.B. 555)
390.993 et al. (S.B. 556)
390.1274 et al. (S.B. 557)
390.1304 et al. (S.B. 558)
390.1324 et al. (S.B. 559)
390.1374 et al. (S.B. 560)
390.1404 et al. (S.B. 561)
390.1283 et al. (S.B. 562)
390.1251 et al. (S.B. 563)
390.1154a & 390.1162 (S.B. 564)
Proposed MCL 769.15 (S.B. 565)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The opportunity to deny financial aid benefits to convicted drug traffickers and possessors provides courts with an additional tool to punish drug offenders who otherwise might not receive a meaningful and tailored punishment. According to the U.S. Department of Justice, drug users place an extraordinary burden on the criminal justice system as correctional institutions are overwhelmed with the incarceration of serious drug offenders. Consequently, many drug offenders are not incarcerated, and probation is considered an inadequate tool for dealing with them. The denial of student financial aid at the State level, as well as under Federal programs, would fill the gap between incarceration and probation. Those who have been found guilty of violating drug distribution and possession laws should have to forfeit their claims to taxpayer-supported privileges and nonessential economic benefits. The possibility of losing student loans could discourage a person from possessing, using, or distributing illegal drugs.

Response: Student loans, work-study opportunities, and other financial aid benefits are designed to help low income students who want to pursue their education in order to improve their lives. Denying these benefits, especially to first-time offenders, could result in some students' foregoing college and remaining in poverty. If student financial aid is to be denied, however, this sanction should be imposed not only on persons who have been convicted of violating drug possession and distribution laws but also on persons who have been convicted of other serious crimes.

Supporting Argument

Under the Federal program, persons found guilty of committing various drug offenses face revocation

of certain Federal student aid benefits, such as Pell Grants and Guaranteed Student Loans. Students who are convicted of violating State or Federal drug laws also should be ineligible for State financial aid benefits, such as the State competitive scholarship program and various work-study programs. Under the Federal law, the length of the denial period is left to the discretion of the sentencing judge and may be up to five years for the first trafficking conviction, 10 years for a second conviction, and permanently for a third or subsequent conviction. For a possession offense, a judge make take away a student's benefits for up to one year for the first offense, and for up to five years upon a second or subsequent conviction. A judge also has the option of suspending the denial upon rehabilitation, or for other discretionary reasons. Thus, the bills could indirectly encourage rehabilitation since students entering long-term treatment for addiction could have their benefits restored.

Opposing Argument

The mechanism for State courts to report a person's denial of financial aid benefits and for higher education institutions to determine whether a student had been denied these benefits is not clear. Senate Bill 565 would require the State Court Administrator's Office to give trial courts information on the denial of Federal benefits and on the option of including this denial in sentencing for a State offense. While court officials have said that there would be no problem in reminding trial court officials of the denial of benefit program, there is uncertainty about recording a person's denial of benefits and reporting the denial to colleges and universities. Criminal history records are maintained by the State Police and not the State Court Administrator's Office. It is not clear what agency would be responsible for recording and distributing information about a person's drug offense conviction and denial of Federal benefits. Furthermore, some college and university officials are concerned about increased costs to their institutions for investigating whether students had been denied financial aid benefits resulting from a drug possession or distribution conviction.

Response: Since colleges and universities in the State have been subject to the Federal statute since 1988, mechanisms should already be in place to determine whether a student had been denied State financial aid as well as various Federal benefits resulting from certain drug convictions. In addition, the U.S. Department of Justice is notified by the sentencing court when a denial of benefits is part of a sentence and the name of the person who is denied benefits is published in the "Debarment List", which contains codes indicating the benefits that have been denied

and the expiration date for the period of denial. According to the Justice Department, the list is available from the U.S. General Services Administration and also is available on an automated system that is offered free of charge and is accessible 24 hours a day, seven days a week.

Legislative Analyst: L. Arasim

FISCAL IMPACT

Senate Bill 555

There could be additional administrative costs for the Department of Treasury to determine if an individual was subject to a court order under the Federal Controlled Substances Act. The \$29,428,197 level of FY 1997-98 State funding for State Competitive Scholarships would not be affected other than by a possible redistribution of funds to eligible students. The bill would have no fiscal impact on local government.

Senate Bill 556

There could be additional administrative costs for the Department of Treasury to determine if an individual was subject to a court order under the Federal Controlled Substances Act. The \$57,791,856 level of FY 1997-98 State funding for Tuition Grants would not be affected other than by a possible redistribution of funds to eligible students. The bill would have no fiscal impact on local government.

Senate Bill 557

The bill would have no fiscal impact on State or local government because Tuition Differential Grants have not received any State funding since FY 1984-85.

Senate Bill 558

The bill would have no fiscal impact on State or local government because Legislative Merit Awards have not received any State funding since FY 1980-81.

Senate Bills 559 and 560

There could be additional administrative costs for Michigan public and private colleges and universities to determine if an individual was subject to a court order under the Federal Controlled Substances Act. The \$7,136,336 level of FY 1997-98 State funding for the Michigan Work Study

Program (which includes both undergraduate and graduate students) would not be affected other than by a possible redistribution of funds to eligible students. The bill would have no fiscal impact on local government.

Senate Bill 561

There could be additional administrative costs for Michigan public colleges and universities to determine if an individual was subject to a court order under the Federal Controlled Substances Act. The \$2,030,105 level of FY 1997-98 State funding for Michigan Education Opportunity Grants would not be affected other than by a possible redistribution of funds to eligible students. The bill would have no fiscal impact on local government.

Senate Bill 562

There could be additional administrative costs for Michigan public and private colleges and universities to determine if an individual was subject to a court order under the Federal Controlled Substances Act. The \$2,584,509 level of FY 1997-98 State funding for the Part-time Independent Student Program would not be affected other than by a possible redistribution of funds to eligible students. The bill would have no fiscal impact on local government.

Senate Bill 563

There could be additional administrative costs for Michigan public colleges and universities and for Bay Mills Tribal College to determine if an individual was subject to a court order under the Federal Controlled Substances Act. The \$3,382,176 level of State funding that was included in the FY 1996-97 base appropriation for each community college and university would not be affected. The bill would have no fiscal impact on local government.

Senate Bill 564

There could be additional administrative costs for the Department of Treasury to determine if an individual was subject to a court order under the Federal Controlled Substances Act. The Department of Treasury's Higher Education Loan Authority has the power to loan money to students or parents of students, and may issue bonds to provide loans. The level of bonding and the amount of money available for loans would not be affected but there could be redistribution of loan funds to eligible students. The bill would have no fiscal impact on local government.

Senate Bill 565

The bill would have a minimal impact on the State Court Administrative Office.

Fiscal Analyst: E. Jeffries

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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.