
Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 780 (as reported without amendment)

Sponsor: Senator John D. Cherry, Jr.

Committee: Judiciary

CONTENT

The bill would amend the Code of Criminal Procedure to allow a court to order the payment of restitution as a condition of sentencing. The court could impose imprisonment if a defendant failed to comply with the restitution order. Currently, if a defendant is placed on probation or paroled, any restitution ordered must be a condition of probation or parole. The court may revoke probation and the parole board may revoke parole if the defendant fails to comply with the order and has not made a good faith effort to comply. Under the bill, if the court imposed a conditional sentence, any restitution ordered would have to be a condition of that sentence. The court would have to impose imprisonment if the defendant failed to comply with the order and had not made a good faith effort to comply.

In determining whether to revoke probation or parole, the court or parole board must consider the defendant's employment status, earning ability, financial resources, the willfulness of his or her failure to pay, and any other special circumstances. The court also would have to consider those factors in determining whether to impose imprisonment.

If a person is convicted of an offense punishable by a fine or imprisonment, the court may impose a conditional sentence and order the person to pay a fine within a limited time stated in the sentence; in default of payment the court may sentence the person to imprisonment as provided by law. Under the bill, the court could condition a sentence upon the payment of a fine and restitution.

In addition, except for a person who is convicted of first- or third-degree criminal sexual conduct, the court also may place the offender on probation with the condition that he or she pay a fine, costs, and/or damages, in installments and, upon default of any of those payments, impose sentence as provided by law. Under the bill, probation also could be conditioned upon the payment of restitution.

The bill is tie-barred to Senate Bill 781.

MCL 769.1a & 769.3

Legislative Analyst: P. Affholter

FISCAL IMPACT

To the extent that Senate Bills 780 and 781 would allow a judge to impose imprisonment for failure to pay restitution, costs for the Department of Corrections or county jails could increase. However, the amount of that increase is indeterminate. In order to determine the cost increase, one would have to know the type of crime for which a conditional sentence is most likely imposed, the number of times restitution was not paid, and the likelihood that a judge would impose imprisonment given a failure to comply with an order to pay restitution. This information is not available at this time.

Date Completed: 11-24-97

Fiscal Analyst: K. Firestone

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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.