

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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House Bill 4640 (as reported by the Committee of the Whole)

Sponsor: Representative Jennifer Faunce

House Committee: Criminal Law and Corrections

Senate Committee: Judiciary

CONTENT

The bill would amend the Code of Criminal Procedure to revise the Code's sentencing guidelines provisions. The bill would do the following:

- Provide that imposition of a sentence under a statute that imposes a minimum sentence would not constitute a departure under the sentencing guidelines, if the sentence imposed exceeded the guidelines' recommended minimum range but were less than the mandatory minimum sentence.
- Remove a requirement that an intermediate sanction that includes a term of imprisonment, under certain circumstances, not be less than the minimum recommended sentence range.
- Revise requirements for the assessment of offense variable points and the conditions of some of the offense variables.

The Code provides that, if a statute mandates a minimum sentence, the court must impose a sentence pursuant to that statute, and imposing a mandatory minimum sentence is not a departure under the sentencing guidelines. The bill specifies, in addition, that if a statute mandated a minimum sentence and authorized a departure from that sentence, a sentence that exceeded the recommended range but was less than a mandatory minimum sentence would not constitute a departure under the sentencing guidelines.

Currently, intermediate sanctions must be imposed under certain circumstances. If the upper limit of the guidelines' recommended minimum sentence exceeds 18 months and the lower limit is 12 months or less, the court must sentence the offender, absent a departure, either to imprisonment with a minimum term within the recommended range or to an intermediate sanction that may include a term of imprisonment of not less than the minimum range or more than 12 months. The bill would remove the requirement that a term of imprisonment imposed pursuant to an intermediate sanction be not less than the minimum range.

Currently, offense variable 13 is a continuing pattern of criminal behavior, and 25 points must be assessed when the offense was part of a pattern of felonious criminal activity involving three or more crimes against property. The bill would reduce the required number of points to five. (The Code also requires 25 points for offense variable 13 when the offense was part of a pattern of felonious criminal activity involving three or more crimes against a person, and 10 points when the offense was part of a pattern of felonious criminal activity involving a combination of three or more crimes against a person or property.)

MCL 769.34 et al.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Date Completed: 11-30-99

Fiscal Analyst: K. Firestone