

MODIFY PAROLE AND PROBATION POLICIES AND CREATE CRIMINAL JUSTICE POLICY COMMISSION

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bills 5928-5931 (reported without amendment)

Sponsor: Rep. Joe Haveman

Committee: Appropriations

Complete to 11-12-14

A SUMMARY OF HOUSE BILLS 5928-5931 AS REPORTED FROM COMMITTEE

The following summary describes the package of bills as introduced. It is anticipated that substitute versions will be adopted as the bills move through the legislative process.

House Bill 5928 would create a 15-member Criminal Justice Policy Commission within the Legislative Council. (A similar Michigan Sentencing Commission existed from 1994 to 2002.)

House Bill 5929 would update the Community Corrections Act to reflect current community corrections policy practices put into place after revisions to the sentencing guidelines were adopted.

House Bill 5930 would make changes to the sanctions imposed for a violation of probation conditions.

House Bill 5931 would make revisions to the parole process.

HOUSE BILL 5928

House Bill 5928 would amend the Code of Criminal Procedure to establish a Criminal Justice Policy Commission as a 15-member commission in the Legislative Council, with members from all of the following appointed by the Governor before March 1, 2015:

- One circuit and one district court judge.
- One representative each from prosecuting and defense attorneys.
- One representative of sheriffs.
- One representative from the Department of Corrections.
- One representative who advocates for alternatives to incarceration.
- One mental health expert.
- One representative of the counties.
- One representative from community corrections agencies.

These members would be chosen from a list of three names submitted by an organization representing that constituency. The Governor also will appoint the commission's chairperson. The following individuals would automatically become part of the commission:

- Chair and Minority Vice-Chair of the Senate Judiciary Committee, or their designees from that committee.
- Chair and Minority Vice-Chair of the House Judiciary Committee, or their designees from that committee.
- Attorney General.

Commission members will be reimbursed for reasonable, actual, and necessary expenses and the Legislative Council would provide the commission with office space, staff, and necessary equipment.

The commission's duties would include all of the following:

- Collect, prepare, analyze, and disseminate information regarding state and local sentencing and release policies and practices for felonies and the use of prisons and jails.
- Collect and analyze information concerning how misdemeanor sentences and the detention of defendants pending trial affect local jails.
- Conduct ongoing research regarding the effectiveness of the sentencing guidelines in developing modifications to sentencing guidelines.
- In cooperation with the Department of Corrections, collect, analyze, and compile data and make projections regarding the populations and capacities of state and local correctional facilities, the impact of the sentencing guidelines and other laws, rules, and policies on those populations and capacities, and the effectiveness of efforts to reduce recidivism. Measurement of recidivism shall include, as applicable, analysis of all of the following:
 - Re-arrest rates, resentence rates, and return to prison rates.
 - One-, two-, and three-year intervals after exiting prison or jail and after entering probation.
 - The statewide level, and by locality and discrete program, to the extent practicable.
- In cooperation with the State Court Administrator, collect, analyze, and compile data regarding the effect of sentencing guidelines on the caseload, docket flow, and case backlog of the trial and appellate courts of this state.
- Develop modifications to the sentencing guidelines. Any modifications to the sentencing guidelines shall accomplish all of the following:
 - Provide for the protection of the public.
 - Consider offenses involving 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 offender characteristics and ensure that offenders with similar offense and offender characteristics receive substantially similar sentences.
 - Specify the circumstances under which a term of imprisonment is proper and the circumstances under which intermediate sanctions are proper.

- Establish sentence ranges for imprisonment that are within the minimum and maximum sentences allowed by law for the offenses to which the ranges apply.
- Maintain separate sentence ranges for convictions under the act's habitual offender provisions, which may include as an aggravating factor, among other relevant considerations, that the accused has engaged in a pattern of proven or admitted criminal behavior.
- Establish sentence ranges that the commission considers appropriate.
- Consider the necessity for local corrections system capacity and maintain funding to ensure that capacity.
- Consider the suitability and impact of offense variable scoring with regard to physical and psychological injury to victims and victims' families.

The commission would be required to conduct its business in accordance with the Open Meetings Act and make written documents used in official commission business available in compliance with the Freedom of Information Act.

The commission would issue a prison and jail impact report to the Legislature relating to any modifications to sentencing guidelines that the commission recommends. The commission would be free to make recommendations to any law, administrative rule, or policy which affects sentencing. The commission would submit any recommended modifications to the sentencing guidelines or to other laws, administrative rules, or policies to the Senate Majority Leader, the Speaker of the House of Representatives, and the Governor. By December 1, 2015, the commission also would be required to submit to the Legislature, the Governor, and the Michigan Supreme Court a report on the implementation of legislative policies adopted in 2014 affecting the criminal justice system.

The report shall include, but not be limited to, all of the following:

- The education of practitioners on changes in legislative policy.
- The length of probation supervision terms imposed.
- The number of probationers subject to Swift and Sure sanctions probation.
- The number of noncompliance, risk, and major risk sanctions imposed on the probation population.
- Noncompliance and risk sanctions imposed on the parole supervision population.
- Parole guideline decisions.
- Victim restitution collection data in the courts and the Department of Corrections.
- Implementation of revisions to the Community Corrections Act.

The recommendations shall reflect all of the following policies:

- To render sentences in all cases within a range of severity proportionate to the gravity of offenses, the harms done to crime victims, and the blameworthiness of offenders.
- 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 in order to create parity between the gravity of an offense, the harm done to crime victims, and the

blameworthiness of the offender, and to achieve, when reasonably feasible, rehabilitation, general deterrence, incapacitation of dangerous offenders, restoration of crime victims and communities, and reintegration of offenders into the law-abiding community.

- To preserve judicial discretion to individualize sentences within a framework of law.
- To produce uniform sentencing in accordance with previously stated policies.
- To eliminate inequities in sentencing and length of incarceration across population groups.
- To encourage the use of intermediate sanctions.
- To ensure that adequate resources are available for carrying out sentences imposed and that rational priorities are established for the use of those resources.
- To promote research on sentencing policy and practices, including assessments of the effectiveness of criminal sanctions as measured against their purposes.
- To increase the transparency of the sentencing and corrections system, its accountability to the public, and the legitimacy of its operations.

HOUSE BILL 5929

House Bill 5929 would update the Community Corrections Act (MCL 791.402) to reflect current policy practices put into place after revisions to the sentencing guidelines were adopted. Briefly speaking, the bill would do the following:

- Change the name of the Office of Community Alternatives to the Office of Community Corrections and revise the duties of the Office.
- Change the name of the State Community Corrections Board to the State Community Corrections Advisory Board, which would act in an advisory capacity rather than being the policy making body for the Office.
- Expand and/or revise the duties of the Office and State Board.
- Modify the board composition of local advisory boards and revise criteria for the plan that each local board must develop.
- Establish duties for a community corrections program.

Specifically, the bill make what are largely considered to be technical revisions to reflect changes in the program brought about by changes to the sentencing guidelines and other corrections-related statutes. First, the bill changes the name of the Office of Community Alternatives within the Michigan Department of Corrections to the *Office of Community Corrections* and the State Community Corrections Board within the Office of Community Corrections to the *State Community Corrections Advisory Board*.

The term "community corrections program" would be redefined to mean a program that is operated by or contracted for by a city, county, or group of counties, or is operated by a nonprofit service agency, and *that offers sanctions, services, or both, instead of incarceration in prison, and which are locally operated and span a continuum of programming options from pretrial through post-adjudication.* (Highlighting denotes changes.)

Office of Community Corrections

Rather than appointing an executive director, the DOC director (or designee) could appoint an administrator of the Office or could administer the assigned functions in other ways to promote efficient administration. Duties of the Office would be expanded to include:

- Providing community corrections advisory boards annually with information required to develop comprehensive plans and programming, including, but not limited to, all of the following for a city or county, as applicable:
 - The total number of felony dispositions and probation violators.
 - Sentencing results of all felony dispositions and probations violators.
 - For each sentenced felon and sentenced probation violator, demographic information (including, but not limited to, age, race, and sex) and the result of the risk and needs assessment that details the felon's or probation violator's risk and needs levels.
- Auditing programs to assure that they meet minimum program standards, including offender eligibility and compliance with evidence-based practices.

State Community Corrections Advisory Board

Rather than acting as the policy making body for the Office, the State Board could conduct activities it considers necessary to advise the DOC director in matters related to community corrections. State Board composition would remain the same; however, the chairperson could not serve more than two consecutive terms.

Some of the duties of the Board would be revised as follows:

- Instead of developing and establishing goals, offender eligibility criteria, and program guidelines, the Board must adopt a variety of key performance indicators that promote offender success, ensure the effective monitoring of offenders, and evaluate community corrections programs. The performance indicators must be relevant to the act and must be reviewed on an annual basis. Recidivism must be at least one of the key performance measures, though there could be multiple recidivism measures to account for accessibility to state and national databases, local ability to collect data, and the resources needed to collect this data. "*Key performance indicator*" means a measure that captures the performance of a critical variable to expand and improve community-based corrections programs to promote offender success, ensure accountability, enhance public safety, and reduce recidivism.
- Program standards must include evidence-based practices. Program eligibility must include moderate to high risk offenders regardless of crime class or adjudication status. "*Evidence-based practices*" means a decision-making process integrating the best available research, clinician expertise, and client characteristics. "*Moderate to high risk*" means that the individual assessed has scored in the moderate to high range of risk using an actuarial, objective, validated risk and need assessment instrument.
- Instead of adopting criteria for community corrections program evaluations, the Board would be required to review, at least once every three years, the actuarial,

objective, validated risk and need assessment instruments to ensure that they continue to meet the needs and requirements of community corrections.

- The board would recommend funding for community corrections to the DOC director based on program performance, utilization, targeting of appropriate offenders, and adherence to evidence-based practices.
- The board would research, review, and make recommendations regarding the use of performance-based contracts within community corrections.

Local community advisory boards

Currently, the board composition for a county, regional, city-county, or city advisory board includes a representative selected from one of the following service areas: mental health, public health, substance abuse, employment or training, or community alternative programs. Instead, the bill requires at least one and not more than three members to be selected from that list. The representative from the general public would be replaced with a member who is affiliated with the applicable workforce investment board, and the member who is a criminal defense attorney could also be a local public defender.

Each local board is required to develop a plan. Currently, one requirement of the plan is to include a system for the development, implementation, and operation of community corrections programs and an explanation of how the state prison commitment rate for the city, county, or counties will be reduced, and how the public safety will be maintained as a result of implementation of the plan. The bill would replace "maintained" with "enhanced" and delete obsolete language pertaining to the first year of funding.

A requirement that the plan include a data analysis of the local criminal justice system would be revised to specify that the data analysis indicate the specification of offender targeting and the services needed for the target population. The plan would also have to include program descriptions that detail the use of an objective, standardized assessment tool or tools to determine applicable programming through the use of targeted interventions that address the risk and needs of the target population.

The bill would delete plan criteria regarding an analysis of the local community corrections programs used at the time the plan was submitted and preceding three years, as well as a system for evaluating the effectiveness of the community corrections program. A plan would still have to include the identity of any designated subgrant recipient and, for a regional or city-county plan, provisions for appointing a fiscal agent to coordinate the financial activities pertaining to the grant award.

Community corrections programs

The bill would delete intent language pertaining to community corrections programs and instead require a community corrections program to do all of the following:

- Provide appropriate sanctions and services as sentencing options, including incarceration, community supervision, and programming services for eligible offenders.

- Provide improved local services for individuals involved in the criminal justice system with the goal of reducing the occurrence of repeat criminal offenses that result in a term of incarceration or detention in jail or prison.
- Ensure the use of evidence-based practices to protect public safety and rehabilitate the offender.
- Promote local control and management of community corrections programs.
- Enhance, increase, and support the state and county partnership in the management of offenders.

HOUSE BILL 5930

Briefly, House Bill 5930 would amend Chapters XI and XIA of the Code of Criminal Procedure (MCL 771.2 et al.) to make changes to the sanctions imposed for a violation of probation conditions, to include the following:

- Modify the legislative intent regarding the purposes of probation.
- For a felony conviction, base the maximum term of probation on a probationer's applicable prior record variable score (taking certain circumstances into consideration).
- Base sanctions for probation violations on the severity of the infraction and the number of times probation conditions had been violated. This would also apply to probation violations by participants in the Swift and Sure Program.
- Count multiple probation violations as one violation when alleged at a single hearing on sanctions or revocation.
- For probationers in the Swift and Sure Program, specify that a noncompliance violation would not subject the probationer to arrest and prompt appearance before a judge if the probationer waived a hearing. Continued violations could, at a minimum, subject a probationer to up to three days confinement.
- Define terms such as "noncompliance violation" and "major risk violation."

Probation is a term of supervision afforded a person who is convicted of a felony or a misdemeanor as an alternative to prison or jail or a combination of jail and probation. A convicted felon serving a term of probation is supervised by the Department of Corrections under the jurisdiction of the sentencing court. A violation of an order or rule of probation may result in the addition of sanctions such as additional conditions of probation, the extension of the length of probation, or even revocation of the probation order. (In the case of revocation, a court could sentence the probationer in the same manner and to the same penalty as if probation had never been granted). A violation of probation occurs when the probationer commits a new crime or fails to keep one or more of the conditions or rules of the probation order (known as a "technical violation").

Specifically, House Bill 5930 would do the following:

- ** Revise the maximum probation period for a defendant convicted of a felony to either:
 - Five years if the applicable prior record variable (PRV) score calculated under the sentencing guidelines is 25 or greater or if the conditions listed below for a two-year maximum period do not apply; or
 - Two years if the PRV score is less than 25 and:

- The court does not determine that a period up to five years is necessary because of victim restitution ordered, or
- The conviction is not for a felony under Chapter LXXVI of the Michigan Penal Code (entitled "Rape"); a felony for stalking, aggravated stalking, or cyber stalking; or a felony involving domestic violence.

Currently, the maximum period of probation for any felony is five years.

** Revise the stated legislative intent to specify that the purposes of probation are to hold offenders accountable for making restitution to ensure compliance with the court's judgment, to effectively rehabilitate offenders by directing them to specialized treatment or education programs, and to protect the public safety. Currently, the legislative intent says that the *granting of probation is a matter of grace conferring no vested right to its continuance*; that language would be deleted.

** Revise protocols regarding probation violations. Under the bill, a court may hold a hearing on sanction or revocation and could enter a disposition as determined to best serve the public interest if the probationer committed or attempted to commit a violation—subject to the following:

- *A first noncompliance violation* – require a court to sanction the probationer to one or more nonconfinement responses. *A second through a fifth noncompliance violation* – allow the court to sanction the probationer by confinement in the county jail for up to three days.
- *A risk violation* – allow the court to order confinement for up to 30 days.
- *A third risk violation or a major risk violation* – allow a court to revoke the probation order.

Time spent in confinement under these provisions must be credited toward the sentence imposed; if the probationer were on probation for multiple judgments, the credit must be applied to each sentence. All violations alleged at a single hearing on sanction or revocation would constitute one violation for purposes of determining the sanction.

** Define terms:

- "*Noncompliance violation*" would mean failure to report or other violation of a condition of supervision that is not a risk violation or a major risk violation.
- "Failure to report" would mean failure to report to the probation officer when required and to turn himself or herself in within seven days after a warrant for apprehension has been issued.
- "*Nonconfinement response*" would mean a violation response that does not result in imprisonment in the custody of the Department of Corrections or the county jail, including extension of the period of supervision within the period provided by law; additional reporting and compliance requirements; testing for the use of drugs or alcohol; and/or counseling or treatment for behavioral health problems, including for substance use.
- "*Risk violation*" means a violation of a condition of supervision that is: contact with a specifically prohibited person or proximity to a specifically prohibited business or location; an arrest for domestic violence or other threatening, stalking,

- or assaultive behavior that is not a violation of a protective order; an arrest for an unadjudicated new felony that is not a major risk violation; absconding from supervision; and/or the probationer's sixth or subsequent noncompliance violation.
- "*Major risk violation*" means either the violation of a protective order or an offense against a person that constitutes:
 - Assault with the intent to murder, do great bodily harm less than murder, maim, or rob and steal—armed or unarmed.
 - Manslaughter or second-degree murder.
 - Kidnapping, taking a hostage, or leading away/enticing a child under 14 years of age.
 - Mayhem.
 - Criminal sexual conduct in the 1st to 3rd degree and assault with intent to commit CSC involving penetration.
 - Aggravated assault.
 - Carjacking.
 - "*Absconding from supervision*" would mean being apprehended by a law enforcement or probation officer, or being arrested for a new crime outside of Michigan.

** Require a presentence investigation report to include a specific written recommendation for a term and the appropriate conditions of probation supervision following jail confinement, if applicable, or the appropriate conditions of probation supervision, if probation is granted. This provision replaces one requiring a written recommendation for disposition based on the evaluation and other information as prescribed by the assistant director of the DOC in charge of probation.

Swift and Sure Sanctions Probation Program (SSSPP)

The SSSPP is an intensive probation supervision program targeting high-risk felony offenders who have a history of probation violations or failures. The intent of the Legislature was *to create a voluntary state program* to fund swift and sure probation supervision *at the local level* based on the immediate detection of probation violations and the prompt imposition of sanctions and remedies to address those violations. The bill would delete the highlighted (bolded and italicized) language above.

The act currently lists several objectives of the program; the bill specifies the program must be implemented and maintained as provided in those objectives.

Currently, one of the listed objectives requires probationers to be arrested as soon as a violation has been detected and taken promptly before a judge for a hearing on the violation. Under the bill, the arrest and appearance before a judge would apply unless the violation is a noncompliance violation and the probationer waives a hearing after being presented with a violation report.

Currently, continued violations are to be addressed by increasing sanctions and remedies as necessary to achieve results. The bill would add that at a minimum, probationers may be confined for the period designated in the violation report, up to three days, on the execution by the probationer of a waiver of rights.

Currently, the act requires a *program of swift and sure probation supervision funded under Section 4* to do certain things (e.g., inform the probationer of the probation requirements and sanctions or remedies for violations). The bill would strike the highlighted (bolded and italicized) language and instead charge a judge with carrying out the requirements if swift and sure probation applies to a probationer.

The act currently lists sanctions and remedies for probation violations by swift and sure probationers approved by the State Court Administrative Office (SCAO) that may be immediately imposed. The bill would delete that list and instead provide for the immediate imposition of sanctions and remedies as provided in Section 4(1) of Chapter XI ("Probation") as detailed above for other probationers.

HOUSE BILL 5931

House Bill 5931 amends the Corrections Code (MCL 791.211a) to make revisions to the parole process, including the following:

- Require a prisoner to be paroled upon completion of the court-imposed minimum sentence (presumptive parole), unless otherwise prohibited under the bill.
- For prisoners sentenced on or after the bill's effective date who were denied parole upon completion of the minimum sentence, require parole at least nine months before the prisoner "maxes out" to ensure a period of supervision in the community.
- Prohibit presumptive parole for prisoners convicted of certain crimes or who failed to meet certain conditions.
- Defer a prisoner's parole to allow time to finish a treatment program reasonably necessary to reduce the risk to public safety upon release.
- Require parole conditions to include participation in programming designed to address a prisoner's behavioral, educational, and social needs.
- After arrest for a parole violation, allow a prisoner to be returned to parole if only a noncompliance violation had been committed.
- Give discretion to the DOC and parole board to impose a sanction or revoke parole for parole violations.
- Reserve revocation of parole for more serious parole violations.

As introduced, the bill addresses the issue of parole sanctions and presumptive parole. Generally speaking, the bill would allow for the release from prison on parole once the minimum sentence is served if certain conduct requirements have been met, and send a parole violator back to prison only for repeated or for more serious violations.

Granting or denying parole

Under the bill, *parole must be granted* when a prisoner has served the minimum sentence imposed by the court, unless otherwise provided by the bill or if the parole board has a *substantial and compelling reason* to conclude that the prisoner, if released, will become a menace to society or to the public safety. Presumptive parole would not apply to a prisoner sentenced for a felony for which the maximum penalty is imprisonment for life, who has pending felony charges or detainers, or who was interviewed by the parole board and denied under Section 33e of the code.

A provision allowing the parole board to depart from the parole guidelines in granting parole to a prisoner with a low probability of parole or denying a parole to a prisoner with a high probability of parole would be deleted. Instead, the parole board would have to release a prisoner who scored high or average probability of release upon serving the minimum sentence unless any of the following circumstances were present:

- The prisoner has an institutional misconduct score lower than -1.
- There is objective and verifiable evidence of postsentencing conduct not already scored in the parole guidelines demonstrating a high risk to public safety if released.
- The prisoner has a pending felony charge or detainer.
- The release would otherwise be barred by law.

If a prisoner were denied for any of the above conditions, the parole board would have to conduct a review not less than annually for a prisoner scoring high or average probability of release. If the prisoner scored low probability of release, the review would have to be conducted not less than every two years until a score of high or average probability were attained.

Any prisoner sentenced on or after the bill's effective date who was not placed on parole upon service of the minimum sentence would have to be placed on parole not later than nine months before expiration of the prisoner's maximum sentence to ensure a period of intensive supervision in the community.

The parole board would be required to impose conditions of parole requiring each prisoner to participate in programming identified by the Department of Corrections (DOC) and designed to address the prisoner's behavioral, educational, and social needs.

Parole deferrals

Parole could be deferred upon the completion of a prisoner's minimum sentence for up to four months to allow completion of a treatment program reasonably necessary to reduce the risk to public safety from the prisoner's release.

Parole violations

Within three days after an arrest for an alleged parole violation, the bill would allow the parole officer to withdraw the warrant and release the prisoner to parole supervision if the officer determines, and a supervisor confirms, that only a noncompliance violation had been committed. Time served under this provision would not be credited unless cumulative confinement (for subsequent noncompliance violations) equals 30 days, at which point the 30 days and any future confinement must be credited. Other existing provisions pertaining to the parole interviewing process and process for responding to parole violations would not be revised.

"Noncompliance violation" would mean a violation that is not a risk violation or a major risk violation. "Risk violation" means one or more of the following:

- Contact with a specifically prohibited person or proximity to a specifically prohibited location.
- An arrest for domestic violence or other threatening or assaultive behavior.

- An arrest for a new felony.
- Absconding supervision.
- The probationer's sixth or subsequent noncompliance violation.

"Major risk violation" means either the violation of a protective order or an alleged violation of any of the following:

- Assault with the intent to murder, do great bodily harm less than murder, maim, or rob and steal—armed or unarmed.
- Manslaughter or second-degree murder.
- Kidnapping, taking a hostage, or leading away/enticing a child under 14 years of age.
- Mayhem.
- Criminal sexual conduct in the first to third degree and assault with intent to commit CSC involving penetration.
- Aggravated assault.
- Carjacking.

"Absconding supervision" means being apprehended by a law enforcement or parole officer, or being arrested for a new crime outside of Michigan. If the prisoner has turned himself or herself in within seven days after a warrant has been issued, he or she could not be sanctioned or revoked for absconding supervision.

Parole sanctions/revocations

The bill would grant discretion to the DOC, as well as the parole board, to sanction or revoke parole for violations of an order of parole supported by a preponderance of the evidence. If sanctioned, the prisoner would be confined in the county jail. The prisoner would be placed on parole again not more than 30 days following the date on which it is determined that a violation had occurred.

For a third determination of a risk violation or for a first determination of a major risk violation, the parole board could revoke parole to the custody of the DOC, and place the prisoner on parole again.

A prisoner who turns himself or herself in within seven days after a warrant has been issued cannot be sanctioned by the parole board or have parole revoked for absconding supervision.

Miscellaneous

- A biennial report by the DOC on the correlation between the implementation of the parole guidelines and the recidivism rate of parolees, which is currently submitted to the Joint Committee on Administrative Rules, would have to be given also to the Criminal Justice Policy Commission created by House Bill 5928.
- The bill replaces references to a "GED certificate" with "high school equivalency certification."
- Under the bill, if prisoners are transferred to a prison in another state, require that institution to provide the prisoner with high school equivalency training and certification.

FISCAL IMPACT:

The following fiscal impact statement is based on the bills as introduced.

The overall intent of the four-bill package is to reduce the amount of time that offenders spend in prison and county jails, thus creating a savings for the state and for local units of government. The amount of these savings are indeterminate and would depend on the actual decrease in the number of individuals sentenced to jail and prison.

House Bill 5928 would have an indeterminate fiscal impact on the state. This bill creates the Criminal Justice Policy Commission and, though members of the commission would not receive salaries, they would be reimbursed for necessary expenses incurred while conducting business of the commission. The Legislative Council would be required to provide the commission with office space, staff, and equipment. It is not known at this time the number of staff that would be needed, or where the staff would be located. From FY 1994 through FY 2002, a similar commission existed, the former Michigan Sentencing Commission, and, at the height of their activities, they had 2.0 FTE positions: an Administrator/Executive Director and an Administrative Assistant, and their appropriations ranged from \$250,000 to \$259,000.

House Bill 5929 would have no fiscal impact on the state or on local units of government. The bill revises the Community Corrections Act to more accurately reflect how these programs currently operate. After the last revisions to sentencing guidelines were made in FY 2002, Public Act 511, the Community Corrections Act, was not revised completely to reflect all of the policy changes. House Bill 5929 would make the necessary revisions to the Community Corrections Act, reiterating the policies currently being implemented.

The intentions of House Bills 5930 and 5931 are to change the way sanctions are imposed for offenders who violate terms of probation and parole, to expand the state's Swift and Sure Sanctions Probation Program (SSSPP) statewide, and to increase the certainty of time spent in prison by implementing presumptive parole. It is anticipated the population of those on probation would be reduced over time by policies that encourage shorter terms for lower-risk offenders. Though demand for jail space would increase from shifting violation sanctions from prison to jails, it is expected the demand for jail space would decrease overall as a result of the increased use of SSSPP and due to shorter sanctions for violators. Also, it is expected the demand for prison beds would decrease due to more sanctions to jail rather than to prison, and to shorter sanctions in response to violations. It is anticipated prison population growth would decline over time due to more certainty of the time offenders spend in prison.

Savings to the state's corrections system and to county jails are expected to occur due to reduced lengths of stay for violations of probation and parole, and due to the increased certainty of how much time prisoners will actually spend in prison. It has been determined that 60% of the offenders sentenced to prison are sentenced because of violating terms of probation or parole. Implementation of jail sanctions for probation and parole violators, implementing a cap on the number of days of jail sanctions, mandatory use by the courts of SSSPP, and certainty of time spent in prison are anticipated to result

in a decrease in the number of prison beds used and in the number of bed days used in county jails.

According to the Council of State Governments (CSG), in FY 2012, the number of technical probation violators sentenced to jail statewide was 3,742. The number of technical probation violators sentenced to prison was 947, and the number of technical parole violators returned to prison was 2,695. The average length of time served was 183 days. Under the bills, assuming a 30-day cap on the number of days served, and assuming increased use of SSSPP, CSG estimates the following annual impacts on jail and prison beds:

Impact on Jail Beds					
<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
492	-481	-439	-341	-338	-339

Impact on Prison Beds					
<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>	<u>FY 2019</u>	<u>FY 2020</u>
-108	-1,077	-2,235	-3,091	-4,005	-5,047

According to the Department of Corrections, it is reasonable to assume a savings of about \$20.0 million for every 1,000 prison beds taken offline. As with the costs of incarceration in county jails, the savings will vary by jurisdiction.

Though, in the long run, these policy changes are expected to result in up to \$100.0 million in savings per year, it can also be expected that upfront costs would occur. Mandatory, statewide use of the state's SSSPP would require additional funding. Costs would depend on the number of people supervised under the program. According to the State Court Administrative Office, the program cost roughly \$2,750 per person per year, in addition to annual administrative costs. Given that more offenders would be on probation and parole, there would be a corresponding increase in the need for probation and parole supervision services. State costs for parole and felony probation supervision average about \$3,600 per supervised offender per year.

Legislative Analyst: Susan Stutzky
 Josh Roesner
 Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.