

**"RECIDIVISM," TECHNICAL PAROLE VIOLATION,"
"TECHNICAL PROBATION VIOLATIONS":
DEFINE TERMS AND REQUIRE DATA COLLECTION**

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**Senate Bill 5 (reported from House committee as H-1)
Sponsor: Sen. John Proos**

**Senate Bill 6 (reported from House committee as H-1)
Sponsor: Sen. Tonya Schuitmaker**

**Senate Bill 7 (reported from House committee as H-1)
Sponsor: Sen. Marty Knollenberg**

**House Committee: Michigan Competitiveness
Senate Committee: Michigan Competitiveness
Complete to 3-7-17**

BRIEF SUMMARY: Senate Bills 5, 6, and 7 amend various acts and codes to place the same definition for the terms "recidivism," "technical parole violation," and "technical probation violation" within each act or code. Each bill would require any data collected and maintained under the Code or Act regarding recidivism to be collected and maintained in a way that separates data regarding "technical probation violations" and "technical parole violations" from data on new felony and misdemeanor convictions.

The bills would take effect 90 days after enactment. The bills are part of a larger legislative initiative regarding corrections; other bills in the package are Senate Bills 8-24 and 50.

FISCAL IMPACT: The bills would have no fiscal impact on the state or on local units of government.

THE APPARENT PROBLEM:

According to testimony, there are approximately 63,500 individuals supervised under probation or parole in Michigan. Of that group, some portion will return to prison at a future time, a situation commonly referred to as "recidivism." Additionally, 50% of all Michigan prisoners are parole/probation violators, some of whom may have committed "technical" violations, such as missing appointments or failing to refrain from the use of alcohol, violations that are violations of the conditions of parole or probation but not violations of statutory law. While recidivism, technical parole violations, and technical probations violations are significant issues in the criminal justice system, observers say there are currently not standard definitions for these terms in state statute.

THE CONTENT OF THE BILL:

Senate Bills 5, 6, and 7 amend various acts and codes to place the same definition for the terms "recidivism," "technical parole violation," and "technical probation violation" within each act or code.

Each bill also would require any data collected and maintained under the Code or Act regarding recidivism to be collected and maintained in a way that separates data regarding "technical probation violations" and "technical parole violations" from data on new felony and misdemeanor convictions.

The bills would take effect 90 days after enactment. The bills are part of a larger legislative initiative regarding corrections; other bills in the package are Senate Bills 8-24 and 50.

"Recidivism" is defined to mean "any rearrest, reconviction, or reincarceration in prison or jail for a felony or misdemeanor offense or a probation or parole violation of an individual as measured first after three years and again after five years from the date of release from incarceration, placement on probation, or conviction, whichever is later."

"Technical parole violation" is defined to mean "a violation of the terms of a parolee's parole order that is not a violation of a law of this state, a political subdivision of this state, another state, or the United States or of tribal law."

"Technical probation violation" is defined to mean "a violation of the terms of a probationer's probation order that is not a violation of a law of this state, a political subdivision of this state, another state, of the United States or of tribal law."

Senate Bill 5 places the definitions and data requirement within the Code of Criminal Procedure (MCL 761.1 and proposed 776.21a).

Senate Bill 6 places the definitions and data requirement within the Community Corrections Act (MCL 791.402 and 791.404).

Senate Bill 7 places the definitions and data requirement within the Corrections Code (MCL 761.201 to 791.285).

ARGUMENTS:

For:

Proponents say that it is the intent of these uniform definitions to give all stakeholders in the criminal justice system a shared understanding of what "recidivism" means. Additionally, to the extent that recidivism data is collected under these bills and other bills in the package, it would allow policymakers and practitioners to analyze and identify

programs that are most effective in reducing recidivism rates. Also, the bills would require that a clear distinction be made between in recidivism data between those who return to incarceration due to new crimes and those who return due to "technical" violations, that is, those who violate the terms of the probation or parole but without violating criminal law.

Response:

A number of concerns have been raised about the definitions in the bills and their potential use.

** A representative from the Citizens Alliance on Prisons and Public Spending (CAPPS) has argued that the definitions of "technical" probation violations and parole violations are incomplete, and would result in under-counting of technical violators. This is because, for example, an individual could be returned to prison as a technical violator by DOC standards for, say, illegally possessing a firearm (without being prosecuted for a new crime), but not be considered a technical violator under the definitions in the bills because there was in fact "a violation of law" (although no new conviction).

** CAPPS has also questioned the definition of "recidivism" as currently found in the bills because it "would require agencies tracking recidivism to count every instance in which someone originally convicted of a felony or misdemeanor commits a misdemeanor, regardless of how minor, three or four or five years after getting off probation or out of custody." They say that is an enormous amount of data to track and not always with a clear purpose.

** The Department of Corrections raised the question of whether the definitions sufficiently establish separate data collection for the three separate measures suggested by the state's Criminal Justice Policy Commission (re-arrest recidivism, re-conviction recidivism, and re-incarceration recidivism).

** SB 6 places the definitions within the Community Corrections Act, the legislation that governs local community corrections advisory boards across Michigan, and requires the state community corrections board to use recidivism as a key performance indicator. Representatives of community corrections boards say they generally do not serve parolees, yet the state board would be required to include parole violations in its recidivism measure. It is unclear whether the community corrections boards would have access to this information. In addition, community corrections boards only serve a portion of probationers within their jurisdiction. In reporting information on recidivism, boards could potentially be reporting on individuals that never received community corrections services. This could reduce the effectiveness of the data collected, as the reported recidivism measure would include probationers who received no recidivism reduction services.

POSITIONS:

Representatives of the following organizations indicated support for SBs 5, 6, and 7:

- Michigan Sheriffs' Association (3-1-17)
- Goodwill Industries of Greater Detroit (2-8-17)

- Michigan Catholic Conference (2-8-17)
- The Office of Attorney General (3-1-17)
- Grand Rapids Chamber (3-1-17)

A representative of the Citizens Alliance on Prisons and Public Spending indicated a neutral position on the SB 5, 6, and 7. (3-1-17)

A representative of the Michigan Association of Community Corrections Advisory Boards indicated a neutral position on SB 6. (3-1-17)

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