

PSYCHOLOGICAL EVALUATION OF PRISONER

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House Bill 5243 as reported as substitute H-1

Sponsor: Rep. Klint Kesto

Committee: Law and Justice

Complete to 1-15-18

Analysis available at
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BRIEF SUMMARY: House Bill 5243 would establish time limitations within which an examination for a psychological evaluation of a prisoner requested by the parole board, and submission of the evaluation report to the parole board, must be completed.

FISCAL IMPACT: House Bill 5243 would create no additional costs for the Department of Corrections.

THE APPARENT PROBLEM:

As part of the determination as to whether to parole a prisoner, the parole board reviews pertinent information contained in a parole eligibility report. In general, the report is prepared by appropriate institutional staff at least 90 days before the expiration of the prisoner's minimum sentence and prior to a prisoner's interview with a parole board member. Included in the report are the results of any physical, mental, or psychiatric examinations of the prisoner that may have been performed.

In addition, under the Corrections Code, the parole board may request that a psychological evaluation be performed to assist it in reaching a decision on the release of a prisoner. Under departmental rules, a psychological or psychiatric evaluation must be conducted before a release decision is made for any prisoner who has a history of hospitalization for mental illness within the previous 2 years, predatory or assaultive sexual offenses, or serious or persistent assaultiveness within the institution.¹ This evaluation may be performed by the same person who provided the prisoner with therapeutic treatment, unless the prisoner or the parole board requests a different person.

Currently, there is nothing in state or federal law that establishes a time period during which the requested psychological evaluation must be completed. Some feel that to ensure efficiency in the parole process and provide parole board members with the information needed to make a timely evaluation of a prisoner's parole eligibility based on parole guidelines, a time limitation should be included in state statute.

THE CONTENT OF THE BILL:

House Bill 5243 would amend the section of the Corrections Code described above, regarding psychological evaluations requested by the parole board. The term "clinician" would replace "person" when referring to the individual who conducts the psychological

¹ R 791.7715(5) of the Michigan Administrative Code.

evaluation or who provided a prisoner with therapeutic services. A clinician under the section would have to be from either the Center for Forensic Psychiatry or another facility officially certified by the Department of Health and Human Services to perform examinations relating to the issue of incompetence to stand trial.

The bill would establish a time period within which the requested examination must be completed and also for when the report of the evaluation must be submitted to the parole board. Under the bill, the clinician would have to complete the examination for the psychological evaluation within 45 days after the parole board requested it. An extension of not more than 15 days could be granted by the parole board if the clinician showed good cause that the additional time was necessary to observe and evaluate the prisoner. If the examination for the psychological evaluation were not completed within the bill's time limitations, the parole board could take immediate steps to obtain the examination, including requesting that it be conducted by a clinician from another facility certified by the Department of Health and Human Services as described above.

The clinician conducting the examination would have to submit a report of the psychological evaluation to the parole board within 60 days after the parole board requests the evaluation. The report would have to include the clinical findings and the facts, in reasonable detail, upon which the clinical findings were based. The parole board could grant an extension of up to 15 days if needed to complete the report.

The bill would take effect 90 days after its enactment.

MCL 791.235

ARGUMENTS:

For:

The committee-reported substitute reflects current practice, as the psychological evaluations requested by members of the parole board when considering a prisoner for parole are currently conducted within the prisoner's institution by clinicians (e.g., psychiatrists, social workers, counselors, nurse practitioners or RNs, physician assistants, or psychologists trained and experienced in the areas of mental illness or mental disabilities) employed by the Michigan Department of Corrections or a third-party vendor. House Bill 5243 would not revise or impact the parole process in any way other than establishing a time frame during which requested psychological evaluations would be conducted and the evaluation report submitted to the parole board. As always, parole is reserved for those who have completed their minimum sentences and been evaluated according to parole guidelines to be capable of functioning in the outside world with a low risk or likelihood of recidivism.

Against:

No concerns specific to the bill's provisions were offered in committee.

POSITIONS:

Representatives of the Alliance for Safety and Justice testified in support of the bill. (11-28-17)

The West Michigan Policy Forum indicated support for the bill. (11-28-17)

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Fiscal Analyst: Robin Risko

■ 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.