



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 4101 (Substitute S-1 as reported)
House Bill 4102 (Substitute S-1 as reported)
House Bill 4103 (Substitute S-1 as reported)
House Bill 5245 (Substitute H-3 as reported without amendment)
Sponsor: Representative Dave Pagel (H.B. 4101)
Representative Peter J. Lucido (H.B. 4102)
Representative Rob VerHeulen (H.B. 4103)
Representative Klint Kesto (H.B. 5245)
House Committee: Appropriations (H.B. 4101-4103)
Law and Justice (H.B. 5245)
Senate Committee: Judiciary

CONTENT

House Bill 4101 (S-1) would amend the Corrections Code to do the following:

- Allow the parole board to grant a medical parole for a prisoner who was determined to be medically frail, except a prisoner convicted of any crime that was punishable by life imprisonment without parole or first-degree criminal sexual conduct (CSC).
- Prescribe the procedure for determining whether a prisoner was medically frail.
- Specify conditions that would apply to a medically frail parole, including requirements that the prisoner agree to the terms of the parole, and that a parolee be placed only in a medical facility that agreed to accept him or her.
- Require the parole board to notify the prosecuting attorney for the county in which the offender was convicted and the sentencing or successor judge if the parolee were no longer eligible for care or no longer needed the level of care for which he or she was placed at the medical facility.
- Specify that the Department of Corrections (DOC) would not retain authority over the parolee's medical treatment plan.
- Require a medical facility housing medically frail parolees to be operated in a manner that ensured the safety of its residents.
- Specify that the process for a medically frail parole determination would not change or affect rights afforded to crime victims under the Crime Victim's Rights Act.
- Require a parole eligibility report to be prepared for a prisoner being considered for medically frail parole at the parole board's request.

House Bill 4102 (S-1) would amend the Corrections Code to do the following:

- Exclude a grant of medically frail parole from certain conditions that apply to a grant of parole.
- Make an exception for a prisoner granted medically frail parole to various provisions related to the jurisdiction of the parole board for certain prisoners, and the lengths of a sentence a prisoner must serve to be eligible for parole.
- Require the parole board to notify the prosecuting attorney of the county in which the prisoner was convicted and the victim or the immediate family of a homicide victim before granting a medically frail parole.

- Allow the prosecuting attorney or victim, or his or her family, to object to the parole board's decision to recommend parole by filing a motion in the circuit court in which the prisoner was convicted, within 30 days of the notice.
- Require the prosecuting attorney, upon notification and request by the victim or his or her immediate family, to consult with the victim or family before deciding whether to object to the parole board's determination to recommend parole.
- Require a motion to object to the parole to be heard by the sentencing judge or his or her successor.
- Allow the prosecutor and parole board to present evidence in support of or in opposition to the determination that a prisoner was medically frail, and require the sentencing judge or his or her successor to determine whether the prisoner was eligible for medically frail parole.
- Specify that the judge's decision would be binding on the parole board, but would be subject to appeal by leave to the Court of Appeals granted to the DOC, the prosecuting attorney, or the victim or his or her immediate family.
- Specify that a prisoner sentenced to life imprisonment for first-degree murder or first-degree CSC would not be eligible for parole and would be subject to a periodic interview or an expedited review for a reprieve, commutation, or pardon based in part on his or her medical condition.
- Specify that prisoners sentenced to life imprisonment for certain other infractions, except a medically frail prisoner, would not be eligible for parole.

House Bill 4103 (S-1) would amend the Michigan Penal Code to do the following:

- Prohibit a person from selling or giving poison, a controlled substance, or a weapon to a medically frail parolee, assisting a medically frail parolee in leaving a medical facility without the permission of his or her supervising agent, or knowingly causing a medically frail parolee to have contact with a person he or she was prohibited from having contact with.
- Prescribe a misdemeanor penalty for a violation.
- Specify that the prohibition would not apply to a person who aided or assisted a parolee in leaving a facility because the parolee required a medical service from a different facility, had a medical emergency, required evacuation from the facility.

House Bill 5245 (H-3) would amend the Corrections Code to exclude a prisoner granted medically frail parole from a provision under which a prisoner convicted and sentenced for the commission of certain crimes is not eligible for parole until he or she has served the minimum term imposed by the court.

MCL 791.235 (H.B. 4101)
 MCL 791.233 & 791.234 (H.B. 4102)
 Proposed MCL 750.197d (H.B. 4103)
 MCL 791.233b & 791.265 (H.B. 5245)

Legislative Analyst: Jeff Mann

FISCAL IMPACT

House Bills 4101 (S-1), 4102 (S-1), and 5245 (H-3) would have no fiscal impact on local government and an indeterminate fiscal impact on the State. To be eligible for medical parole under the bills, prisoners would have to meet a number of requirements regarding their medical condition and their risk to public safety. According to the Department of Corrections, approximately 20 to 30 prisoners potentially would be eligible for medical parole under the definition of "medically frail", but those prisoners have not been screened for risk or for placement, so it is not known whether any or all 20 to 30 prisoners would be released. Also, there are another 450 to 500 prisoners who would not yet be eligible for parole under the

medically frail criteria, but who could become eligible sometime in the future based on their chronic care needs.

Originally, anyone entering a State prison forfeited Medicaid eligibility. An exception to that general rule opened up in 1997, however, when the U.S. Department of Health and Human Services informed state Medicaid directors that prisoners who left state or local facilities for care in hospitals or nursing homes could be covered by Medicaid as long as they received care outside of a secure facility and otherwise qualified for the program. Most of the prisoners targeted by the bills would qualify under existing traditional Medicaid rules. For any costs covered by traditional Medicaid, the Federal government pays approximately 65% and the State pays 35%.

House Bill 4101 (S-1) does not specify exactly the type of facility to which the inmates would be paroled, but the average annual Medicaid rate for a semi-private room in a nursing home in Michigan is \$80,000. The cost to the State for that care would be approximately \$28,000.

It is not known how much medically frail prisoners cost the Department of Corrections, but past research has estimated that these prisoners have health care costs from three to five times the rate of an average prisoner. Using these estimates, in the short term, medically frail prisoners cost between \$26,300 and \$41,400 per year.

In the short term, the movement of medically frail prisoners from DOC facilities into nursing homes would have an indeterminate fiscal impact on the State. If 30 prisoners were deemed eligible for medical parole, the fiscal impact on the State would be between a \$50,000 cost and a \$400,000 savings per year. This analysis assumes that the State would not incur any implementation costs or ongoing costs beyond the Medicaid matching funds.

House Bill 4103 (S-1) would have no fiscal impact on the State and could have a negative, though likely minor, fiscal impact on local government. The proposed offense would be a misdemeanor punishable by imprisonment for up to one year, a fine of up to \$1,000, or both. An increase in misdemeanor arrests and convictions could increase resource demands on local court systems, law enforcement, and jails. Any associated increase in fine revenue would be dedicated to public libraries.

Date Completed: 5-21-18

Fiscal Analyst: Ryan Bergan

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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.