



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

House Bills 5627, 5657, and 5658 (as passed by the House)
Sponsor: Representative Brian K. Elder (H.B. 5627)
Representative Gary Howell (H.B. 5657 & 5658)
House Committee: Judiciary
Senate Committee: Judiciary and Public Safety

Date Completed: 11-19-20

CONTENT

House Bill 5627 would repeal Section 7415 of the Public Health Code, which limits the dismissal or reduction of the charge in certain controlled substances cases.

House Bill 5657 would amend Public Act 17 of 1909, which prohibits or limits the access by prisoners and employees of correctional facilities to certain weapons, wireless communication devices, liquor, and controlled substances, to revise citations to the Michigan Compiled Laws section that House Bill 5627 would repeal.

House Bill 5658 would amend Chapter 7 (Grand Juries, Indictments, Informations and Proceedings Before Trial) to delete a provision that references Section 7415 of the Public Health Code.

House Bills 5657 and 5658 are tie-barred to House Bill 5627.

House Bills 5627 and 5658 are described in greater detail below.

House Bill 5627

Under Section 7415 of the Public Health Code, after the arraignment of a defendant on a warrant charging the defendant with the commission of any of the offenses specified in Sections 7401(2)(a)(i) or (ii) or 7403(2)(a)(i) or (ii) of the Code, or with conspiracy to commit an offense specified in those sections, the examining magistrate may not dismiss the case upon motion of the prosecuting attorney unless the dismissal is with prejudice, and the examining magistrate may not allow the prosecuting attorney to reduce the charge if it appears to the examining magistrate at the conclusion of the preliminary examination that one or more of the offenses set forth in this provision was committed and that there is probable cause for charging the defendant with a violation of one or more of the offenses.

At or after the arraignment of a defendant on an indictment or information charging the defendant with the commission of any of the offenses specified in Sections 7401(2)(a)(i) or (ii) or 7403(2)(a)(i) or (ii), or with conspiracy to commit an offense specified in those sections, the court in which the indictment or information is filed may not dismiss the case upon motion of the prosecuting attorney unless the dismissal is with prejudice, and the court may not accept a plea of guilty, guilty but mentally ill, or nolo contendere unless, with the consent of the prosecuting attorney on the record, the defendant enters a plea of guilty, guilty but

mentally ill, or nolo contendere to at least one of certain controlled substances felonies or conspiracy to commit one of those offenses.

The bill would delete these provisions.

(Sections 7401(2)(a)(i) and (ii) prohibit the manufacture, creation, delivery, or possession of a Schedule 1 or 2 controlled substance that is a narcotic drug or a drug described in Section 7214(a)(iv) of the Code (coca leaves and any salt, compound, derivative, or preparation thereof which is chemically equivalent to or identical with any of these substances, except that the substances do not include decocainized coca leaves or extraction of coca leaves which extractions do not contain cocaine or ecgonine) in an amount of 1,000 grams or more and an amount of 450 grams but not more than 1,000 grams, respectively. Sections 7403(2)(a)(i) and (ii) prohibit a person from knowingly or intentionally possessing without a valid prescription a Schedule 1 or 2 controlled substance that is a narcotic drug or a drug described in Section 7214(a)(iv) in an amount of 1,000 grams or more or in an amount of 450 grams but not more than 1,000 grams, respectively.)

House Bill 5658

Chapter 7 of the Code of Criminal Procedure prohibits a prosecuting attorney from entering a nolle prosequi (a notice of dismissal of charges by the prosecution) upon an indictment, or discontinuing or abandoning the indictment, without stating on the record the reasons for the discontinuance or abandonment and without the leave of the court having jurisdiction to try the offense charged, entered into the minutes.

If a defendant is charged with a major controlled substance offense, in addition to the requirements described above, the requirements of Section 7415 of the Public Health Code apply to the prosecuting attorney's motion to dismiss the charge. The bill would delete this provision.

MCL 333.7415 (H.B. 5627)
800.285 (H.B. 5657)
767.29 (H.B. 5658)

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

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

Fiscal Analyst: Joe Carrasco
Michael Siracuse

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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.