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Senate Bills 423 and 424 (as introduced 5-6-21)
Sponsor: Senator Sylvia Santana (S.B. 423)
Senator Curtis S. VanderWall (S.B. 424)
Committee: Health Policy and Human Services

Date Completed: 7-14-21

CONTENT

Senate Bill 423 would amend Chapter 11 (Probation) of the Code of Criminal Procedure to allow a court to reduce a probation sentence under certain circumstances for a qualified probationer who complied with the requirements of a medication-assisted program for the treatment of an alcohol use disorder or opioid use disorder.

Senate Bill 424 would amend the Corrections Code to allow for the reduction of a parole sentence under certain circumstances for a qualified parolee who complied with the requirements of a medication-assisted program for the treatment of an alcohol use disorder or opioid use disorder, and to require certain modifications to a parole order if a reduction in parole were granted.

Senate Bill 423

Under Section 2 of Chapter 11 of the Code of Criminal Procedure, except as otherwise provided, if a defendant is convicted of an offense that is not a felony, the probation period may not exceed two years. Except as otherwise provided, if the defendant is convicted of a felony, the probation period may not exceed three years; however, the probation term for a felony may be extended not more than two times for not more than one additional year for each extension if the court finds that there is a specific rehabilitation goal that has not yet been achieved, or a specific, articulable, and ongoing risk of harm to a victim that can be mitigated only with continued probation supervision.

Except as otherwise provided, after the defendant has completed half of the original felony or misdemeanor probation period, he or she may be eligible for early discharge. The defendant must be notified at sentencing of his or her eligibility and the requirements for early discharge from probation, and the prescribed procedure to notify the court of his or her eligibility.

Under the bill, except as otherwise provided and subject to provision described below, the court could reduce a probation sentence by 90 days for every six months that a qualified probationer complied with the requirements of a medication-assisted program for the treatment of an alcohol use disorder or opioid use disorder approved by the Michigan Department of Corrections (MDOC). However, this provision would not apply to a qualified probationer who was subject to a mandatory probation term. "Qualified probationer" would mean an individual serving one or more probation terms for a controlled substance violation or another nonviolent offense that the court record indicates was primarily the result of

controlled substance or alcohol use. "Nonviolent offense" would mean a crime that does not involve the use of force against or injury to another person.

The court could not grant the reduction in the term of probation allowed under the bill to a qualified probationer if he or she committed either of the following during his or her term of probation regardless of his or her compliance with a medication-assisted program for the treatment of an alcohol use disorder or opioid use disorder:

- An act that directly threatened, endangered, or injured another person.
- A violation of a law of the State, a political subdivision of the State, another state, or the United States or of tribal law, that was not a law related to the use or possession of a controlled substance, unless the court determined the primary cause of the violation was the probationer's identified substance use disorder and another person was not threatened, endangered, or injured by the conduct giving rise to the violation.

Section 2 requires the court to, by order to be entered in the case as the court directs by general rule or in each case, fix and determine the period, conditions, and rehabilitation goals of probation. Under the bill, the order would have to include a designation that the probationer were a qualified probationer, if applicable.

Senate Bill 424

Section 42 of the Corrections Code specifies that if a paroled prisoner has faithfully performed all of the conditions and obligations of parole for the period of time fixed in the parole order, and has obeyed all of the rules and regulations adopted by the parole board, the prisoner has served the full sentence required. The Parole Board must enter a final order of discharge and issue the paroled prisoner a certificate of discharge.

Parole may not be granted for a period less than two years in a case of murder, actual forcible rape, armed robbery, armed, kidnapping, extortion, or breaking and entering an occupied dwelling in the nighttime unless the maximum time remaining to be served on the sentence is less than two years.

Parole must be granted for life only for a prisoner sentenced under Section 520b(2)(b) of the Michigan Penal Code. (Under Section 520b(2)(b), criminal sexual conduct in the first degree is punishable by imprisonment for life or any term of years, but at least 25 years, if violation that is committed by an individual 17 years of age or older against an individual less than 13 years of age.)

Under the bill, Section 42 would be subject to Section 42a, which the bill would add. Under Section 42a, except for parole granted as described above and subject to Section 42a, a term of parole could be reduced by 45 days for every six months that a qualified parolee complied with the requirements of a medication-assisted program for the treatment of an alcohol use disorder or opioid use disorder approved by the MDOC. "Qualified parolee" would mean an individual granted parole for one or more convictions for a controlled substance offense or for a nonviolent offense that the presentence investigation or Parole Board interview indicates was primarily the result of controlled substance or alcohol use. "Nonviolent offense" would mean a crime that does not involve the use of force against or injury to another person.

If a term of parole were reduced under Section 42a, the parole order would have to be amended in writing to reflect the reduction.

The Parole Board could not grant the reduction in the term of parole to a qualified parolee if he or she committed either of the following during his or her term of parole regardless of his

or her compliance with a medication-assisted program for the treatment of an alcohol use disorder or opioid use disorder:

- An act that directly threatened, endangered, or injured another person.
- A violation of a law of the State, a political subdivision of the State, another state, or the United States or of tribal law, that was not a law related to the use or possession of a controlled substance, unless the Parole Board determined the primary cause of the violation was the parolee's identified substance use disorder and another person was not threatened, endangered, or injured by the conduct giving rise to the violation.

A parole order would have to indicate if the individual were a qualified parolee.

MCL 771.2 (S.B. 423)
791.238 & 791.242 (S.B. 424)

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

The bills initially would have no fiscal impact on State or local governments. The medication-assisted program in the Michigan Department of Corrections is a relatively new program so no immediate savings are expected. However, as the program gains more participants and those participants begin to reduce probation times, the Department could realize savings from reduced caseloads and supervision terms. The amount of savings is indeterminate and would depend on the actual number of probation terms that were reduced.

While the bills would change some of the calculations courts must make regarding good time and parole length determinations, no additional costs or savings for local courts systems are expected.

Fiscal Analyst: Joe Carrasco
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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.