



House Committee on Michigan Competitiveness
February 8, 2017

Senate Bills 5-24, 50

Good afternoon, Chairman Chatfield and members of the committee. My name is Barbara Levine. I'm the associate director for research and policy of CAPPSS, the Citizens Alliance on Prisons and Public Spending.

CAPPSS is a nonpartisan, nonprofit organization that has been working for 17 years to reduce corrections spending by safely reducing the prisoner population. The size of the prison population depends on how many people get to prison and how long they stay there. A combination of reforms affecting intake and length of stay could reduce the prisoner population by thousands and save millions of general fund dollars. We would be happy to meet with any members individually who have an interest in these strategies.

The package of bills before you today does a lot of things. I would just like to make a couple of general observations and address a few bills in particular.

First, Sen. Proos has been a leader in addressing a very important aspect of prison intake – the large number of people who do not complete community supervision, whether probation or parole, and who end up in prison as a result. His support for swift and sure sanctions for probation violators and for ensuring that community programs are evidence-based focuses attention on practices that have too long gone unexamined. To the extent that this package includes bills designed to encourage better outcomes on community supervision, it is addressing an important issue.

However, this package of bills is very wide-ranging. Some address such matters as changing the name of GED certificates, ensuring that parole absconders don't receive food stamps, rewarding businesses that hire probationers and parolees, and structuring the MDOC's process for screening prison volunteers. Still others establish various data collection and reporting requirements. I am not suggesting that these are not worthwhile goals. But to be clear, they do not have any predictable impact on the number of prison beds or corrections spending.

One bill, SB 16, does present a great opportunity to actually reduce the number of parole violators who are incarcerated but it would require amending. Currently the parole board has complete discretion to revoke parole for violation of any condition of supervision. Those conditions may range from failing to report or drinking alcohol to theft, assault or weapons possession that constitutes a misdemeanor or a felony. There are many sanctions available short of revocation that the board routinely employs when the parolee's conduct does not pose a serious threat to public safety. However these sanctions are not applied consistently. We recently completed a report with many examples of technical violators who were unnecessarily returned to prison for years.

SB 16 designs a system of “parole sanction certainty” for conduct that violates parole conditions. The bill sets two standards. One prohibits incarcerating a parolee for more than 30 days as a sanction for a technical violation short of revocation. The other prohibits revoking parole for technical violations unless there is a significant risk to prior victims or the public at large that can’t be managed in the community. These are excellent standards that are fair to parolees, protective of communities and sensible about using expensive prison beds.

The hitch is, under SB 16 these standards only apply to those parolees the MDOC chooses to put in a parole sanction certainty program. That could be a lot or a few. The bill contains no criteria for how the MDOC is to exercise its discretion. We believe these standards should be applied to all parolees and that doing so could save several hundred prison beds without any negative impact on public safety. There is simply no reason why any parolee should be returned to prison for months or years if he or she does not pose an actual threat to the community. We urge you to amend SB 16 to broaden the application of the standards.

We would also encourage you to look closely at the definitions laid out in SB 5, 6 and 7 and in SB 13 and 16. The definitions of technical probation and technical parole violations are incomplete. Any new criminal conduct, whether a misdemeanor or a felony, constitutes a probation or parole violation even if it is not prosecuted or results only in a jail sentence. But the definitions in these bills are limited to a violation “that is not in and of itself a violation of a law.” They exclude all sorts of conduct that simultaneously violates a probation or parole condition and the criminal law. These definitions are meant to ensure recidivism is measured consistently. But they are under-inclusive and could result in thousands of technical violators not being counted.

On the other hand, the definition of recidivism may be over-inclusive. As written it would require agencies tracking recidivism to count every instance in which someone convicted of a felony or a misdemeanor commits a misdemeanor, regardless of how minor, three or four or five years after getting off probation or out of custody. That’s an enormous amount of data to track. It will involve many people who never got any sort of programming for their first misdemeanor so it will not be used to measure the effectiveness of any programming in preventing the second misdemeanor years later. We all want as much data as might realistically help build a better criminal justice system. But it is also possible to drown in numbers that are being collected without a clear purpose. You may wish to think more about the resources you want to invest in this level of data collection and the goals you’re trying to achieve.

Finally, we strongly urge you not to pass SB 50. We appreciate that the bill was amended on the Senate floor to permit the MDOC to place prisoners in the county jails rather than require it. Nonetheless, making state prisoners serve years in county jails is a bad idea under any circumstances. County jails are designed for short-term stays. Conditions there are in no way comparable to conditions in a level 1 prison. There is no programming, no outdoor recreation and generally little or no indoor recreation. Mail, telephone and visiting policies are highly restrictive, as is the ability to possess any personal property, like books, board games or radios.

This bill envisions rewarding the good conduct of the lowest security state prisoners with years of literally doing nothing in a county jail. It allows for punishing their parents, spouses and children with extremely limited contact during that time. There are no benefits whatsoever for prisoners in terms of reentry or family contact. They would not be placed in jails in the counties where they were convicted or put into community employment programs. That is why we ask that you not support it.

I appreciate the opportunity to speak with you today. I’d be glad to answer any questions now or in individual meetings at your convenience.