



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



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

House Bill 5216 (Substitute S-1 as reported)
House Bill 5217 (Substitute S-1 as reported by the Committee of the Whole)
House Bill 5218 (Substitute S-1 as reported)
Sponsor: Representative Klint Kesto (H.B. 5216)
Representative John Walsh (H.B. 5217)
Representative Harvey Santana (H.B. 5218)
House Committee: Commerce
Senate Committee: Judiciary

CONTENT

House Bill 5216 (S-1) would amend the Corrections Code to do the following:

- Require the Department of Corrections (DOC) to give a prisoner, upon release, certain documents regarding his or her record and behavior.
- Require the DOC to give a prisoner a certificate of employability within 30 days before he or she was paroled, if the prisoner met certain requirements.
- Specify that a certificate of employability would be valid for four years, but provide for its revocation under certain circumstances.
- Require the DOC to give an individual an opportunity to file a grievance related to the revocation of a certificate of employment, through the Department's grievance system.
- Require the DOC to confirm a request as to whether a certificate of employability had been issued to a person and was valid at the time of the inquiry.
- Establish a misdemeanor penalty of up to 93 days' imprisonment and/or a maximum fine of \$500 for falsely stating or otherwise representing that a person had a valid certificate of employability.
- Provide that the DOC would not be civilly liable for damages based on its decision to issue or deny a certificate of employability to any prisoner or for revoking or failing to revoke a certificate.

Specifically, the bill would require the DOC, when a prisoner was released, to give the prisoner documents regarding his or her criminal convictions; his or her institutional history, including any record of institutional misconduct, whether he or she successfully completed programming provided by the DOC or a contractor, or obtained a GED or other educational degree, and his or her institutional work record; and other information the DOC considered relevant.

In addition, the DOC would have to issue a certificate of employability to a prisoner who successfully completed a career and technical education course; had no major misconducts during the two years immediately preceding release; had not more than three minor misconducts during the two years immediately preceding release, and received a silver level or better on the National Work Readiness Certificate, or a similar score as determined by the DOC on an alternative job skills assessment test administered by the Department.

A certificate of employability could be issued only within 30 days before the prisoner was released on parole from a correctional facility and would be valid for four years after the date of issue unless the DOC revoked it. The Department would have to revoke a certificate of employability if the prisoner committed any criminal offense during the 30-day period before release, and could revoke it if the prisoner had any institutional misconduct during that

period. The DOC would have to revoke the certificate of a person who committed a felony after receiving it and was then placed under the DOC's jurisdiction for committing that felony.

House Bill 5217 (S-1) would amend the Revised Judicature Act to do the following:

- Allow a certificate of employability issued by the DOC to be introduced as evidence of a person's due care in hiring or other activities regarding the holder of the certificate.
- Specify that a certificate would establish that an employer did not act negligently in hiring a person if a claim against the employer required proof that the employer was negligent by disregarding a prior criminal conviction.

The bill would not relieve an employer from a duty or requirement established in another law concerning a background check or verification that an individual was qualified for a position, and would not relieve the employer of liability arising from failure to comply with any such law. The bill also would not create any affirmative duty or otherwise alter an employer's obligation to or regarding an employee with a certificate of employability issued under the Corrections Code.

House Bill 5218 (S-1) would amend Public Act 381 of 1974, which pertains to the issuance of occupational licenses to former offenders, to require a licensing board or agency to consider a person's certificate of employability issued by the DOC if a judgment of guilt were used as evidence in the determination of the person's good moral character.

The bills would take effect on January 1, 2015. House Bill 5217 (S-1) is tie-barred to House Bill 5216. House Bill 5218 (S-1) is tie-barred to House Bills 5216 and 5217.

Proposed MCL 791.234d (H.B. 5216)
Proposed MCL 600.2956a (H.B. 5217)
MCL 338.42 (H.B. 5218)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

House Bill 5216 (S-1) would require the Department of Corrections to issue a certificate of employability to a prisoner before his or her release from a correctional facility if specified conditions were met. This certificate-granting process would result in additional costs to State government. Also, since the bill would allow a four-year window for the withdrawal of a certificate, as well as other administrative checks on those with certificates, there could be added costs in the review of those whose certificate came under question. In addition, the bill would create a new misdemeanor penalty for an individual who misrepresented his or her possession of a valid certificate of employability. The possible increase in misdemeanors could increase the demands on local court systems. Any fine revenue from the additional misdemeanors would go to public libraries.

House Bills 5217 (S-1) and 5218 (S-1) would have no fiscal impact on State or local government.

Date Completed: 11-21-14

Fiscal Analyst: John Maxwell
Josh Sefton

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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.