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SENTENCING GUIDELINES - REVISIONS

House Bill 6193 as introduced
Sponsor: Rep. Michael Nye

Senate Bill 825 (Substitute H-1)
Sponsor: Sen. William Van Regenmorter
Senate Committee: Judiciary

First Analysis (12-2-98)
House Committee: Judiciary

THE APPARENT PROBLEM:

When House Bill 5419 (Public Act 317 of 1998) was enacted into law on September 15, 1998, it was understood that the sentencing guidelines established by the legislation would occasionally need revision to add new crimes and to reflect revisions in existing crimes. In addition, since the bill was enacted several technical or drafting errors have been identified and should be corrected. For example, the effective date was intended to be December 15, 1998 and this was not uniformly identified throughout the legislation. Further, since the supreme court has issued an order terminating the use of its guidelines as of January 1, 1999, there is the possibility that some felons might not be subject to either set of guidelines - those felons who committed crimes before December 15, 1998 but had not been sentenced before January 1, 1999. Legislation has been introduced to cure these problems, to provide guidelines for recently enacted crimes, and to create guidelines that comport with recent revisions.

THE CONTENT OF THE BILLS:

House Bill 6193 would amend the Code of Criminal Procedure (MCL 768.34) to change the date when the supreme court's sentencing guidelines would no longer apply and when the legislatively enacted guidelines would take effect. The date would be changed from January 1, 1999 to December 15, 1998. [Note: The bill amends the changes made by Public Act 317 of 1998. The public act provided for an effective date of December 15, 1998; however, the act's internal

references provided that the sentencing guidelines established by the supreme court would not apply to felonies committed on or after January 1, 1999 and that on or after January 1, 1999, the minimum sentence for a crime would be determined under the sentencing guidelines in effect on the date the crime was committed. It is these dates that would be changed by the bill so that the legislatively enacted guidelines would take effect on December 15, 1998.]

Senate Bill 825 would amend the Code of Criminal Procedure to classify and categorize a number of new crimes and recently enacted changes in several existing crimes. In addition, the bill would eliminate duplicative, obsolete and repealed references and would also clarify that a sentence that exceeded the recommended sentence range but was less than the mandatory minimum sentence would not be a departure from the guidelines. The bill would also change the effective date of the guidelines and would specify that the supreme court guidelines would continue to apply to felonies that were covered by those guidelines and were committed before December 15, 1998. The bill itself would also have an effective date of December 15, 1998. Finally, the bill would also make a number of technical amendments correcting what were essentially typographical errors.

FISCAL IMPLICATIONS:

Fiscal information is not available.

House Bill 6193 and Senate Bill 825 (12-2-98)

ARGUMENTS:

For:

The bill makes no significant changes to the sentencing guidelines legislation as enacted. The classification of new and revised crimes are the only substantive changes. The change in the effective date is needed to prevent a gap in the use of guidelines. Other changes -- for example, the elimination of duplicate, repealed, or obsolete references -- are purely technical in nature and do not effect the substance of the sentencing guidelines act.

POSITIONS:

There are no positions on the bills.

Analyst: W. Flory

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.