

Legislative Analysis



ALLOW PERSON CONVICTED OF FIRST DEGREE MURDER TO BE HELD IN STATE PRISON BEFORE SENTENCING

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 406 (S-1) as passed by the Senate
Sponsor: Sen. Tom Barrett
House Committee: Judiciary
Senate Committee: Judiciary and Public Safety
Complete to 6-20-22

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

Senate Bill 406 would amend the Michigan Penal Code to require that a person convicted of first degree murder be committed to the jurisdiction of the Department of Corrections (DOC) before sentencing under certain circumstances.

Under the bill, immediately following a conviction of first degree murder, a court would have to enter an order committing the convicted person to the jurisdiction of the DOC for incarceration in a state correctional facility pending sentencing. The order would have to be entered using a form created by the State Court Administrative Office (SCAO) for that purpose. However, the order would become effective only if both of the following applied:

- The sheriff agrees to transport the convicted person for final sentencing from the DOC facility to the county and back again.
- The convicted person was at least 18 years old at the time the offense was committed.

A court would have to hold the sentencing hearing no more than 45 days after a person is committed to the DOC.

MCL 750.316

BACKGROUND:

Senate Bill 406 (S-1) as passed by the Senate is identical to HB 4719 (S-1) as reported from the Senate Committee on Judiciary and Public Safety. The bill differs from HB 4719 (H-1) as passed by the House in that SB 406 extends the time by which a sentencing hearing post-conviction would have to be held from 30 days to 45 days. In addition, SB 406 would require the court to enter the order requiring the immediate transport using a form created by SCAO and would condition the order's effectiveness on whether the sheriff "agrees to" (rather than "will") provide the prisoner's transport.

First-degree murder

Section 316 of the Michigan Penal Code defines first degree murder as any of the following:

- Murder perpetrated by means of poison, lying in wait, or any other willful, deliberate, and premeditated killing.
- Murder committed in the perpetration of, or attempt to perpetrate, arson, criminal sexual conduct in the first, second, or third degree, child abuse in the first degree, a major controlled substance offense, robbery, carjacking, breaking and entering of a dwelling, home invasion in the first or second degree, larceny of any kind, extortion,

kidnapping, vulnerable adult abuse in the first or second degree, torture, aggravated stalking, or unlawful imprisonment.

- Murder of a peace officer or corrections officer committed while he or she is lawfully engaged in the performance of any of his or her duties as a peace officer or corrections officer, knowing that he or she is a peace officer or corrections officer engaged in the performance of his or her duty as a peace officer or corrections officer.

FISCAL IMPACT:

Senate Bill 406 would have an indeterminate fiscal impact on the state and on local units of government. Provisions of the bill would result in a shift of costs from local county jails to the state correctional system. Individuals convicted of first degree murder would no longer be detained in county jails while waiting to be sentenced to prison, if the county sheriff agrees to transport a convicted individual from a county court to a correctional facility, then back to the court for final sentencing, and from the county court back to the state correctional facility after sentencing, and if convicted individuals were at least 18 years of age at the time offenses were committed.

Counties would realize a savings from no longer having to detain these offenders while they await sentencing, but would incur additional costs for having to transport these offenders to and from state correctional facilities/county courts for final sentencing. Savings to county jails for not housing these offenders is indeterminate, as costs of incarceration in county jails and how those costs are financed vary by jurisdiction. Costs to counties for transportation would depend on a number of factors, including the number of occurrences, travel distances, fuel prices, etc.

The state Department of Corrections would incur costs for having to house these offenders sooner. In fiscal year 2021, the average cost of prison incarceration in a state facility was roughly \$44,400 per prisoner, a figure that includes various fixed administrative and operational costs. Those costs are financed with state general fund/general purpose revenue.

Also, under provisions of the bill, SCAO would be required to create a form to be used to commit convicted individuals, without imposing a sentence, to the jurisdiction of the Department of Corrections. Costs would be incurred by SCAO for creation and distribution of the form to courts, although it is anticipated that those costs would be negligible and be able to be covered by existing appropriations.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Robin Risko

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