

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action:	Do Pass as Amended and Be Printed Engrossed and Be Referred to the Committee on Ways and Means
Vote:	6 - 0 - 3
Yeas:	Barton, Cameron, Hicks, Lininger, Williamson, Barker
Nays:	0
Exc.:	Krieger, Olson, Tomei
Prepared By:	Bill Taylor, Counsel
Meeting Dates:	2/5, 2/6

WHAT THE MEASURE DOES: Requires the Department of Corrections to include time spent in jail awaiting trial if the person is convicted not only of the offense for which the person was being held in jail, but also the time spent in jail if the person is convicted of a lesser or greater included offense or any crime that the sentencing judge designated as part of the same criminal episode. Allows a sentencing judge to order that a person convicted of a crime receive credit for time spent in jail awaiting trial even if the crime for which the person was convicted was not directly related to the crime for which the person was confined to jail. Allows a judge to give credit for time served in jail after for an offender who has had a probationary sentence revoked or received a sentence for violating the terms of conditional discharge agreement or a drug court diversion agreement. Requires a defendant's attorney not to disclose to the attorney's client a victim or witness's e-mail address or cell phone number unless a court authorizes disclosure. Allows law enforcement to give notice to a victim of a criminal proceedings against the person who harmed the victim by e-mail or by cell text message if the victim has given prior written consent to being notified by these means. Removes marijuana and marijuana products from the commercial drug offense list. Stipulates that if a condition of probation is being modified, that the probationer's attorney of record is required to receive notice of the change if the change is being made within 30 days after the defendant's sentence. Allows the probationer or court, as well as the district attorney, to object to the probation officer's proposed changes to the probationer's probation. Declares emergency; effective upon passage.

ISSUES DISCUSSED:

- Removal of marijuana and marijuana products from the commercial drug offense list was inadvertently left out of House Bill 3194
- Due process requires that the probationer have an opportunity to object to changes in probation

EFFECT OF COMMITTEE AMENDMENT: Allows a judge to not give credit for time served for time spent in jail for a probation violation. Removes marijuana and marijuana products from the commercial drug offense list. Stipulates that if a condition of probation is being modified, that the probationer's attorney of record is required to receive notice of the change if the change is being made within 30 days after the defendant's sentence. Allows the probationer or court, as well as the district attorney, to object to the probation officer's proposed changes to the probationer's probation.

BACKGROUND: A person sentenced to prison may have spent time in jail awaiting trial. Under certain limited circumstances, the time spent in jail may be counted toward the time the person must spend in prison. For example, if a person spent six months in jail waiting for trial on a particular charge and was later convicted on that charge and sent to prison for two years on that charge, the six months in jail would reduce the prison sentence by six months. However, if the person is eventually sentenced for a crime other than the one originally charged or a lesser included charge and then incarcerated, the person does not get credit for time served. Credit for time served is not a reduction of sentence, but a calculation of a sentence.

In a criminal prosecution, the district attorney must turn over certain materials and information to the defendant's attorney. For example, the district attorney must turn over a list of all witnesses the district attorney plans to call and all evidence that tends to exculpate the defendant. The district attorney need not turn over certain information such as personal identifiers of the victim or any witnesses unless a court finds that the defendant's need for the information

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This summary has not been adopted or officially endorsed by action of the committee.

cannot be met in any other way. Finally, a victim has a constitutional and statutory right to be notified of the criminal proceedings against the person who harmed the victim. A law enforcement agency may give notice to a victim in person or by sending a letter to the person's last known address.