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Politics imperils sentencing plan

Legislators fear soft-on-crime label

Niki Kelly | The Journal Gazette

INDIANAPOLIS – Whether Republican or Democrat, no state lawmaker wants to be accused in a campaign flier as being soft on crime.

This political fear is perhaps the biggest obstacle to a sentencing plan being pushed by Gov. Mitch Daniels to save the state money on prison beds.

Rep. Win Moses, D-Fort Wayne, said he is glad the governor has focused on the issue because Indiana has a tremendous imbalance in sentencing and the system needs to improve.

But he also said the bill is having trouble getting traction.

"It's because negative campaigning influences elections," Moses said. "All elected representatives and senators are worried that any reduction in sentences will expose them to that."

An analysis conducted by two major national groups found a major driver behind the state's prison growth is Class D felony offenders – especially those serving time for theft and drug crimes.

A Class D felony is the lowest-level felony and carries a maximum prison term of three years.

The report recommends revising Indiana law by implementing various gradations for the possession and sale of cocaine, methamphetamine, and certain controlled substances.

Such a change would mean many Hoosier drug offenders would be charged with lower-level felonies and misdemeanors, and serve lighter sentences.

About \$27 million in state savings are set to be put back into three programs – one for substance abuse treatment; one to improve the methods of probation and a third to encourage counties to reduce the number of Class D felony offenders sent to state prisons.

Local officials are concerned that's not enough money to take care of the new offenders at the county level.

Sen. Brent Steele, R-Bedford – author of Senate Bill 561 – conceded it is a complete unknown whether that money is sufficient. That is why he added substantial court fee increases in the bill for those who break the law.

The bill is scheduled for a full vote in the Senate today. It then will move to the House for consideration.

The biggest organized opposition to the bill has come from Indiana prosecutors who have fought a reduction of drug sentences. They have been successful in retaining the ability to increase sentences when crimes are committed within 1,000 feet of schools and other facilities.

Steve Johnson, executive director of the Indiana Prosecuting Attorneys Council, said the prime concern for prosecutors is making sure that the most hardened criminals serve more time in prison.

That is why legislators added an amendment to the overhaul legislation that would make the worst felons serve at least 85 percent of their sentence – commonly known as truth in sentencing – instead of the current system where most prisoners serve half of each sentence.

Johnson said that change added balance to the bill so lawmakers can feel they are being tough on some criminals even while reducing others' sentences.

But Steele said that the truth-in-sentencing amendment, "may blow the fiscal upside of the bill completely out of the water."

He noted the whole point was to avoid building more prisons – not extend sentences.



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Rep. Jeff Espich, R-Uniondale, said he has not accounted for the sentencing bill in his version of the state budget – not in savings or possible increased spending on longtime felons.

“Legislators have gotten nervous and they are trying to modify the bill so it’s a trade-off,” he said.

“You have to be really careful it doesn’t end up costing more. We obviously can’t afford that.”

nkelly@jg.net

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