

**SENATE FISCAL AGENCY
MEMORANDUM**



DATE: May 10, 2021
TO: Members of the Michigan Senate
FROM: Michael Siracuse, Fiscal Analyst
RE: Executive Order 2021-5

Executive Order 2021-5

On April 21, 2021, Governor Whitmer issued Executive Order (EO) 2021-5 to create the Michigan Jail Reform Advisory Council within the Department of Technology, Management, and Budget (DTMB). The Council will act to assist, monitor, and evaluate jail reform legislation implementation throughout Michigan. The Council will report before January 15, annually, to the Governor on the implementation of jail reform legislation. The Council will dissolve March 31, 2023, or upon direction from the Governor.

Article V, Section 1 of the Michigan Constitution states that the power of the executive is vested in the Governor. Article V, Section 8 of the Michigan Constitution grants the Governor supervisory authority over each principal department of State government. The establishment of the Council is not subject to legislative disapproval, and the order creating it was effective on the date it was filed, April 21, 2021.

Creation of the Michigan Jail Reform Advisory Council

Executive Order 2021-5 creates the Michigan Jail Reform Advisory Council as an advisory body within the DTMB. The Council must consist of at least 12, and may consist of up to 19, members. The Governor will appoint the Secretary of State, the Attorney General, and the Directors of the Departments of State Police, Corrections, and Health and Human Services, or their respective designees. The Governor, after soliciting nominees from the applicable public interest entities, also will appoint a public defender or criminal defense attorney, a county prosecutor, a member of a board of county commissioners, a county sheriff or jail administrator, a police chief, a community mental health employee, and a representative of community corrections or pretrial services.

Membership also may include the Chief Justice of the Michigan Supreme Court or the Chief Justice's designee from the Court or the State Court Administrative Office (SCAO), as well as a circuit court judge and a district court judge (both designated by the Chief Justice). In addition, two members selected from the Michigan Senate and two from the House of Representatives may participate as members of the Council.

The Governor must name a chairperson.

Charge of the Council

The Council must facilitate, assist with, monitor, and evaluate the implementation of jail reform legislation. To do this, the Council may do the following:

- Draft and distribute reform legislation guidelines to criminal justice system professionals.
- Collaborate with local and State agencies on implementation strategies.

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- Identify training needs and provide support as needed.
- Collaborate with government agencies to develop and implement changes in forms, technology, and websites.
- Recommend timelines for agencies and justice system practitioner groups to report on progress.
- Identify obtainable data and measure outcomes of jail reform legislation.

The Council must report annually, on or before January 15, to the Governor, the Legislature, and the Supreme Court on the implementation of jail reform legislation and measurable outcomes. The Council will dissolve on March 31, 2023, or such other time as the Governor directs.

Council Operations

The State Court Administrative Office and the DTMB (as needed) will staff and assist the Council. Budgeting and procurement services will be provided by the DTMB. The members of the Council will not be paid but may be reimbursed for travel and other necessary expenses.

The Council may establish advisory workgroups, conduct investigations, hold hearings, and consult with outside experts. The Council also may hire or retain contractors or consultants as determined by the DTMB. The Council may accept donations of labor, services, or other things of value from public or private agencies or people in accordance with law. Members of the Council must refer all legal, legislative, and media contacts to the Executive Office of the Governor.

Types of Transfers

The creation of the Council does not involve a Type I, II, or III transfer as identified under the Executive Organization Act.

Fiscal Impact

The Department of Technology, Management, and Budget will incur the costs for staff or support provided to the Council. Members of the Council will serve without compensation; however, they may be reimbursed for necessary travel and expenses consistent with current law, rules, and procedures, and subject to available funding. The typical annual costs to support an advisory committee can range from \$10,000 to \$200,000 depending on the travel expenses and staff demands of the Council. As mentioned, the costs will be determined by demand and available funding within the DTMB. Accordingly, there is no anticipated need for additional funding.

Summary

Executive Order 2021-5 creates the Michigan Jail Reform Advisory Council within the DTMB. The Council will act in an advisory capacity to facilitate, assist with, monitor, and evaluate the implementation of jail reform legislation. The Council will report annually to the Governor on its activities. The EO that created the Council was effective on the date it was filed, April 21, 2021. The Council will dissolve on March 31, 2023, or on another date as the Governor directs.

If you have any questions on EO 2021-5, please do not hesitate to contact me.

/mh

c: Christopher Harkins, Director
Kathryn Summers, Associate Director