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## BILL ANALYSIS



Telephone: (517) 373-5383  
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Senate Bill 763 (as enrolled)  
Sponsor: Senator Joe Conroy  
Senate Committee: Judiciary  
House Committee: Judiciary and Civil Rights

**PUBLIC ACT 186 of 1996**

Date Completed: 1-16-97

**CONTENT**

The bill amended Public Act 189 of 1966, which prescribes procedures for obtaining and executing search warrants, to provide for the issuance of a warrant for the search and seizure of hair, tissue, or blood or other fluid samples in a criminal sexual conduct (CSC) investigation involving relatives. The bill took effect June 1, 1996.

Specifically, the bill provides that if a court has probable cause to believe that a person committed first-, second-, third-, or fourth-degree CSC involving someone related to the actor by blood or affinity to the third or fourth degree (as described below), the court, upon proper petition for a search warrant, must authorize the search and seizure of hair or tissue, or blood or other fluid samples from all of the following:

- Any individual whom the court has probable cause to believe committed the violation.
- A child, if the court has probable cause to believe that the violation resulted in the birth of that child.
- The remains of an unborn child, if the court has probable cause to believe that the violation resulted in a pregnancy that was terminated before the birth of the child.

The bill specifies that it does not prohibit the court from issuing a search warrant for other evidence as considered appropriate by the court.

The CSC offenses to which the bill applies are the following:

- First- or second-degree CSC involving a victim who is at least 13 but less than 16 years of age, or is mentally incapable, mentally disabled, mentally incapacitated, or physically helpless, and who is related to the actor by blood or affinity to the fourth degree.
- Third- or fourth-degree CSC if the victim is related to the actor by blood or affinity to the third degree and the sexual penetration or sexual contact occurs under circumstances not otherwise prohibited by Chapter 76 of the Michigan Penal Code (which governs CSC offenses).

The bill was tie-barred to House Bill 5076 (Public Act 155 of 1996), which amended the Penal Code to provide that a person is guilty of third-degree CSC if he or she engages in sexual penetration with another person who is related to the actor by blood or affinity to the third degree and the sexual penetration occurs under circumstances not otherwise prohibited by Chapter 76. The

offense is fourth-degree CSC if it involves sexual contact, rather than penetration. In either case, it is an affirmative defense that the other person was in a position of authority over the defendant and used the authority to coerce the defendant to violate these provisions. In addition, these provisions do not apply if both persons are lawfully married to each other at the time of the alleged violation.

MCL 780.652a

Legislative Analyst: S. Margules

**FISCAL IMPACT**

The bill will have no fiscal impact on State or local government.

Fiscal Analyst: M. Ortiz

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.