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BILL



ANALYSIS

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House Bill 5076 (Substitute S-1 as reported)  
Sponsor: Representative Clyde LeTarte  
House Committee: Judiciary and Civil Rights  
Senate Committee: Judiciary

## **CONTENT**

The bill would amend the Michigan Penal Code to criminalize as criminal sexual conduct (CSC) "sexual penetration" and "sexual contact" that occurred between certain persons related by blood or affinity to the third degree. The violations would not apply if both persons were lawfully married to each other at the time of the alleged violation. Also, it would be an affirmative defense that the other person used a position of authority over the defendant to coerce the defendant into the violation. The defendant would have to prove this defense by a preponderance of the evidence. The bill would take effect on June 1, 1996, and is tie-barred to Senate Bill 762.

A person would be guilty of third-degree CSC if he or she engaged in sexual penetration with another person who was at least 18 years of age and related to the actor by blood or affinity to the third degree. Third-degree CSC is a felony, punishable by up to 15 years' imprisonment. A person would be guilty of fourth-degree CSC if he or she engaged in sexual contact with another person who was at least 18 years of age and related to the actor by blood or affinity to the third degree. Fourth-degree CSC is a misdemeanor, punishable by up to two years' imprisonment, a maximum fine of \$500, or both.

MCL 750.520d & 750.520e

Legislative Analyst: P. Affholter

## **FISCAL IMPACT**

The bill could result in additional costs for the Department of Corrections for incarcerating violators of the bill's provisions.

There are no data readily available on the potential number of new commitments that might result from the bill's new provisions regarding incest. For information, in 1994, there were 287 commitments to the Department of Corrections for first-degree CSC, with an average minimum sentence of 13 years, 262 commitments for second-degree CSC, with an average minimum sentence of just over four years, 270 prison commitments for third-degree CSC with an average minimum sentence of four years, and 46 prison commitments for fourth-degree CSC with an average minimum sentence of 1.3 years.

If one assumed an increase of five new annual prison admissions for each degree of criminal sexual conduct (first through fourth) involving incest, then costs of incarceration in the long term could increase by approximately \$1.65 million.

Date Completed: 2-7-96

Fiscal Analyst: M. Hansen

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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.