

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA**BILL ANALYSIS**

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 4525 (Substitute S-5 as reported)
Sponsor: Representative Jon Jellema
House Committee: Criminal Law and Corrections
Senate Committee: Judiciary

CONTENT

The bill would amend the Michigan Penal Code to extend fourth-degree criminal sexual conduct (CSC) penalties to sexual contact by a "mental health professional" with a client or patient. "Mental health professional" would mean that term as defined in the Mental Health Code (an individual who is trained and experienced in the area of mental illness or developmental disabilities and is one of the following: a physician, psychologist, or registered professional nurse licensed to practice in Michigan; a certified social worker, social worker, or social worker technician registered in Michigan; a licensed professional counselor licensed to practice in Michigan; or a licensed marriage and family therapist).

Under the Penal Code, a person is guilty of fourth-degree CSC if he or she engages in sexual contact with another person under specified circumstances. The bill would add a situation in which the actor was a mental health professional and the sexual contact occurred during or within two years after the period in which the victim was the mental health professional's client or patient, and the victim was not his or her spouse. Fourth-degree CSC is a misdemeanor punishable by up to two years' imprisonment, a maximum fine of \$500, or both.

The bill also would amend the definition of "sexual contact", which currently includes the intentional touching of the victim's or actor's intimate parts or the intentional touching of the clothing covering the immediate area of the victim's or actor's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification. Under the bill, "sexual contact" would include that intentional touching if it were done for sexual arousal or gratification, done for a sexual purpose, or done in a sexual manner for revenge, to inflict humiliation, or out of anger.

MCL 750.520a & 750.520e

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. To the extent that the bill would expand the elements of fourth-degree criminal sexual conduct to include actors who are mental health professionals within two years of having provided services to a victim, there could be more offenders found guilty of fourth-degree CSC. However, there are no data to indicate how many more offenders there might be.

According to the 1998 Department of Corrections Statistical Report, there were 61 new commitments for fourth-degree CSC with an average minimum sentence of 1.2 years. Assuming that the number of offenders committed to prison increased 5% as a result of the bill and that the average minimum sentence remained constant, given that the average annual cost of incarceration is \$22,000, costs of incarceration for the additional offenders could increase by \$82,500.

Date Completed: 12-5-00

Fiscal Analyst: K. Firestone

floor/hb4525

Analysis available @ <http://www.michiganlegislature.org>

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.