

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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House Bill 5281 (Substitute S-1 as reported)
Sponsor: Representative Scott Hummel
House Committee: Criminal Justice
Senate Committee: Judiciary

CONTENT

The bill would amend the Michigan Penal Code to increase the maximum penalty for simple assault and allow enhanced penalties to be imposed for domestic assault if the offender previously had been convicted of assault in another state. The bill would take effect on April 1, 2002.

Under the Code, assault is a misdemeanor punishable by up to 90 days' imprisonment and/or a maximum fine of \$500, if no other punishment is prescribed by law (simple assault). The bill would increase the maximum term of imprisonment for simple assault to 93 days. The maximum term currently is 93 days if the assault is committed against a spouse or former spouse, an individual with whom the offender has had a child in common, or a person who is or was a resident of the offender's household (domestic assault).

Domestic assault is punishable by up to one year's imprisonment and/or a maximum fine of \$1,000 if the offender previously has been convicted of domestic assault or any of the following in a domestic situation under the Michigan Penal Code or a substantially corresponding local ordinance: aggravated assault; assault with a dangerous weapon; or assault with intent to commit murder, to do great bodily harm, or to maim. If an offender has two or more previous convictions, domestic assault is a felony punishable by up to two years' imprisonment and/or a maximum fine of \$2,500.

For purposes of these enhanced penalties, the bill would include a conviction under a law of another state, or an ordinance of a political subdivision of another state, that substantially corresponded to provisions of the Michigan Penal Code penalizing assault, domestic assault, aggravated assault, assault with a dangerous weapon, or assault with intent to commit murder, to do great bodily harm, or to maim.

MCL 750.81

Legislative Analyst: P. Affholter

FISCAL IMPACT

To the extent that convictions from other states would be included in previous convictions for the purposes of enhanced penalties, the bill could result in increased costs for State and local government. The bill also could increase costs to local government by increasing the maximum number of days' confinement a first-time offender might receive from 90 to 93.

According to the Department of Corrections 1999 Statistical Report, 282 people were convicted of some type of attempt or act of domestic violence. There are no data available to indicate how many offenders a year would receive longer sentences due to previous convictions in other states.

Offenders convicted of a first-time misdemeanor would be subject to probation or incarceration in a local facility. Local units would incur the cost of probation as well as the cost of incarceration, which may vary between \$27 and \$62 per day. In most cases, offenders convicted of a second or third offense also would be subject to probation or incarceration in a local facility, and third-time offenders would be eligible for a prison sentence. The State would incur the cost of felony probation, estimated at \$4.38 per day, and the cost of incarceration in State facility, at an annual average cost of \$25,000.

Each offender convicted of a second offense as a result of the bill could receive a sentence with up to nine more months of probation or incarceration in a local facility at an additional cost of up to \$17,000 to local governments. Those convicted of a third offense could receive up to 20 more months and also face the possibility of prison rather than probation or jail. If one additional offender were convicted, were sentenced to prison, and received the longest minimum sentence, the cost to the State would be \$48,000.

Date Completed: 12-6-01

Fiscal Analyst: B. Wicksall