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House Bill 5281 (Substitute H-4 as passed by the House)
Sponsor: Representative Scott Hummel
House Committee: Criminal Justice
Senate Committee: Judiciary

Date Completed: 12-4-01

CONTENT

The bill would amend the Michigan Penal Code to increase the maximum penalty for simple assault; include a "dating relationship" within the domestic assault provision; 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 to 93 days.

The maximum term of imprisonment 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). The bill would include in domestic assault an assault committed against an individual with whom the offender currently or previously had a dating relationship. ("Dating relationship" would mean frequent, intimate associations primarily characterized by the expectation of affectional involvement. The term would not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.)

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 (MCL 750.81a).
- Assault with a dangerous weapon (MCL 750.82).
- Assault with intent to commit murder (MCL 750.83).
- Assault with intent to do great bodily harm (MCL 750.84).
- Assault with intent to maim (MCL 750.86).

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 the enhanced penalties when a domestic assault offender has one or more previous convictions, 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 dating relationships would be included in domestic assault provisions, and 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.

In 1999, 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, or how many additional offenders would be convicted due to the inclusion of dating relationships. Offenders convicted of first-offense domestic violence receive misdemeanor sentences of up to 93 days. A second-time offender may receive up to one year's imprisonment, and a third offense is a Class G felony, which has a minimum sentence range of 0-3 months to 7-23 months.

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 \$4.23 per day, and the cost of incarceration in a State facility, at an annual average cost of \$22,000.

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 \$16,000 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 \$42,000.

Fiscal Analyst: B. Wicksall

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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.