

SEX OFFENDER ADOPTIONS

Senate Bill 516 as passed by the Senate First Analysis (9-24-03)

Sponsor: Sen. Gilda Z. Jacobs
**House Committee: Family and Children
Services**
**Senate Committee: Families and Human
Services**

THE APPARENT PROBLEM:

Under the Michigan Adoption Code, a child may not be placed for adoption with a person convicted of criminal sexual conduct (CSC) in any degree or assault with intent to commit CSC if the victim was under the age of 18 when the crime was committed. In response to an outrageous case in Oakland County (see Arguments) and since a sex offender should be considered a danger to children regardless of the victim's age, it has been suggested that the law should be changed to prevent a sex offender from adopting at all.

THE CONTENT OF THE BILL:

The bill would amend the Michigan Adoption Code to provide that a child could not be placed with any person convicted of criminal sexual conduct in any degree or assault with intent to commit criminal sexual conduct. The bill would delete the current reference to the age of the victim.

MCL 710.22a

HOUSE COMMITTEE ACTION:

The House Committee on Family and Children reported Senate Bill 516 in the same form that it passed the Senate.

FISCAL IMPLICATIONS:

The House Fiscal Agency says the bill would have an indeterminate fiscal impact on the state. There could be a small increase in administrative costs due to the review of additional conviction cases. (HFA committee analysis dated 9-18-03)

ARGUMENTS:

For:

In a case in Oakland County, a man who had served 11 years in prison for first-degree criminal sexual conduct involving a woman was allowed to adopt children and recently was charged with raping one of his adopted daughters. Shortly after his release from prison, the man had married the alleged victim's maternal grandmother, and the two of them adopted the girl and her two siblings in 1996. Though the Family Independence Agency conducted an extensive investigation and, along with the judge and the children's lawyer, had concerns about the adoption, the man was allowed to adopt the children because his victim in the earlier rape was over the age of 18. Allegedly, the man sexually abused the now 14-year-old over a period of several years. After having been convicted of a horrific crime, this man never should have been granted parental rights. This loophole in the law clearly needs to be closed so that such a situation does not happen again. The bill would help ensure that courts, when making adoption decisions, do not place children in harm's way.

Against:

While not opposing the specific change to state law proposed by this bill, a support group for families of those accused of criminal sexual conduct testified before the House Committee on Family and Children Services that the statute being amended, and Michigan's criminal sexual conduct statutes in general, are in need of reform. They say that some young men are unfairly labeled and stigmatized as sex offenders; for example, young males who have been convicted of criminal sexual conduct as a result of engaging in "consensual" sexual relations with underage females five years or more younger. The act that this bill proposes to amend would prohibit a young man who was convicted of criminal sexual conduct as a consequence of having sex at the age of 20 with a 15-year old girlfriend from ever adopting children (even apparently if the two later married). Is

this fair or sensible? There are other kinds of cases where individuals who plead to criminal sexual offenses should not as a result be disqualified from adopting children.

Response:

The argument above is over a much larger issue than addressed by this bill, which simply aims at treating, for purposes of adoption law, those who commit CSC against persons 18 years of age and older in the same manner as those who commit CSC against persons under 18.

POSITIONS:

The Family Independence Agency supports the bill. (9-24-03)

Citizens for Second Chances (a support group for families of those accused of criminal sexual conduct) is neutral on the bill but advocates reform of the underlying statute and of Michigan's criminal sexual conduct laws in general. (9-24-03)

Analyst: C. Couch

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.