

# Legislative Analysis

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## INDECENT EXPOSURE WHILE ENGAGING IN LEWD AND LASCIVIOUS ACT

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### House Bill 4597

**Sponsor: Rep. Leslie Mortimer**

### House Bill 4598

**Sponsor: Rep. Rick Jones**

### House Bill 4599

**Sponsor: Rep. Kevin Elsenheimer**

**Committee: Judiciary**

**Complete to 5-10-05**

## A SUMMARY OF HOUSE BILLS 4597-4599 AS INTRODUCED 4-13-05

Together the bills would decrease the penalty for indecent exposure, create a two-year misdemeanor offense for being indecently exposed while engaging in a lewd and lascivious act, require persons convicted of indecent exposure while engaging in a lewd and lascivious act to register on the sex offenders registry, and include the crime of indecent exposure while engaging in a lewd and lascivious act in the sentencing guidelines. A detailed description of each bill follows:

House Bill 4597 would amend the Michigan Penal Code (MCL 750.335a). The bill would reduce the maximum term of imprisonment for indecent exposure from one year to 93 days. The act currently allows imprisonment or a fine of not more than \$1,000. The bill would allow imprisonment and/or imposition of a fine.

Furthermore, if a person were indecently exposed and engaged in a lewd and lascivious act, he or she would be guilty of a misdemeanor punishable by imprisonment for not more than two years, a fine of not more than \$2,000, or both. Lastly, the bill would delete obsolete language pertaining to trying an offense involving a sexually delinquent person only in a court of record.

House Bill 4598 would amend the Sex Offenders Registration Act (MCL 28.722). A person convicted of a listed offense is subject to the act's reporting requirements for inclusion in the sex offenders registry. The bill would include as a "listed offense" a conviction for indecent exposure while engaging in a lewd and lascivious act. The bill is tie-barred to House Bill 4597.

House Bill 4599 would amend the Code of Criminal Procedure (MCL 777.16q) to specify that indecent exposure with a lewd act would be a Class G felony against a person with a two-year maximum term of imprisonment. The bill is tie-barred to House Bill 4597.

(Note: Even though indecent exposure while engaging in a lewd and lascivious act would be designated a misdemeanor under House Bill 4597, the Code of Criminal Procedures defines "felony", for purposes of the sentencing guidelines, as including two-year misdemeanors.)

## **FISCAL IMPACT:**

House Bill 4597 would have an indeterminate fiscal impact on the state and local units of government. Typically, misdemeanor offenses are punishable only by local sanctions, which may include a term in the county jail or misdemeanor probation supervision, which is a local responsibility. However, statute limits a sentence to a county jail to 12 months, so if an offender was sentenced to more than 12 months under the bill, the state could incur costs of prison incarceration, which currently average about \$28,000 per prisoner annually. Local impact under the bill would depend on how the bill affected the numbers of misdemeanor convictions, jail utilization, and the numbers of offenders under misdemeanor probation supervision. Local libraries would benefit from any increase in penal fines occurring under the bill.

House Bill 4598 would have no significant fiscal impact.

House Bill 4599 would provide for sentencing guidelines in accordance with House Bill 4597, and thus would have no direct fiscal impact.

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■ 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.