



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 263 (Substitute S-6 as reported by the Committee of the Whole)
Sponsor: Senator Bev Hammerstrom
Committee: Judiciary

CONTENT

The bill would amend the Code of Criminal Procedure to specify that evidence of a statement by a declarant would be admissible if all of the following applied: the statement purported to narrate, describe, or explain the infliction or threat of physical injury upon the declarant; the action in which the evidence was offered was an offense involving domestic violence; the statement was made at or near the time of the infliction or threat of physical injury; the statement was made under circumstances that would indicate its trustworthiness; and the statement was made to a law enforcement officer or to a firefighter, a paramedic, or an emergency medical technician who assisted the declarant at or near the time of the infliction or threat of physical injury. Evidence of a statement made more than five years before the filing of the action or proceeding would be inadmissible. Nothing in the bill could be construed to abrogate any privilege conferred by law.

If the prosecuting attorney intended to offer evidence under the bill, he or she would have to disclose the evidence to the defendant at least 15 days before the trial, or later as allowed by the court for good cause shown.

"Declarant" would mean a person who makes a statement. "Domestic violence" or "offense involving domestic violence" would mean an occurrence of one or more of the following acts that was not an act of self-defense: causing or attempting to cause physical or mental harm to a family or household member; placing a family or household member in fear of physical or mental harm; causing or attempting to cause a family or household member to engage in involuntary sexual activity by force, threat of force, or duress; or engaging in activity toward a family or household member that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested. "Family or household member" would mean a spouse or former spouse; an individual with whom the person resides or has resided; an individual with whom the person has a child in common; or an individual with whom the person has or has had a dating relationship.

Proposed MCL 768.27b

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

To the extent that allowing the admission of statements of declarants as evidence would increase the conviction rate for additional crimes, the bill could increase local and State criminal justice costs. The State would incur the cost of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in a State facility at an average annual cost of \$30,000. The 2003 Michigan Uniform Crime Report reported 48,310 domestic violence offenses. According to the Department of Corrections Statistical Report, 415 of those offenses resulted in convictions.

Date Completed: 11-2-05

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