



Senate Fiscal Agency  
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BILL



ANALYSIS

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Senate Bill 1110 (Substitute S-1 as passed by the Senate)  
Sponsor: Senator Valde Garcia  
Committee: Judiciary

(as enrolled)

Date Completed: 3-30-06

### **RATIONALE**

With few exceptions, the Code of Criminal Procedure allows a sentencing court to place a person on probation for up to two years, if he or she is convicted of a misdemeanor, and for up to five years, if he or she is convicted of a felony. Imposing a period of probation gives the court an opportunity to establish conditions that an offender must meet and to oversee his or her activities. Some people contend that child abusers need long-term oversight to ensure that they continue to participate in programs designed to correct their behavior toward children. Third- and fourth-degree child abuse are misdemeanors, however, which means that violators may receive only a maximum of two years' probation. It has been suggested that those convicted of third- and fourth-degree child abuse should be subject to probation for up to five years.

### **CONTENT**

The bill would amend the Code of Criminal Procedure to allow a court to place a person convicted of third- or fourth-degree child abuse on probation for up to five years.

(Under the Michigan Penal Code, a person is guilty of third-degree child abuse if he or she knowingly or intentionally causes physical harm to a child; a person is guilty of fourth-degree child abuse if his or her omission or reckless act causes physical harm to a child. Third-degree child abuse is punishable by up to two years' imprisonment, while fourth-degree child abuse is punishable by up to one year's imprisonment. First- or second-degree child abuse is a felony.)

MCL 771.2a

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

The Code of Criminal Procedure allows a probationary term of up to two years for most misdemeanor offenses, with some exceptions. For instance, an individual convicted of stalking, which is a misdemeanor unless certain conditions apply, may receive probation for up to five years. Also, except as otherwise provided by law, the court may place an individual on probation for any term of years, but not less than five, if he or she is convicted of an offense that requires registration under the Sex Offenders Registration Act, regardless of whether it was a misdemeanor or a felony. According to a district judge who testified before the Senate Judiciary Committee, courts need to be able to impose longer periods of probationary oversight of misdemeanor child abuse offenders. The bill would allow a court to continue its supervision of these violators beyond two years to ensure that they receive treatment.

**Response:** In addition, more attention needs to be focused on preventive efforts, such as providing parenting skills training to parents of at-risk children.

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on local government. To the extent that the bill could increase the average length of probationary periods ordered, it would increase corrections costs. Local units

of government incur the costs of misdemeanor probation, which vary by county.

Fiscal Analyst: Lindsay Hollander

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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.