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BILL ANALYSIS

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House Bill 4597 (Substitute H-1 as passed by the House)
House Bill 4598 (Substitute H-1 as passed by the House)
House Bill 4599 (Substitute H-1 as passed by the House)
Sponsor: Representative Leslie Mortimer (H.B. 4597)
          Representative Rick Jones (H.B. 4598)
          Representative Kevin Elsenheimer (H.B. 4599)
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 11-7-05

CONTENT

House Bills 4597 (H-1), 4598 (H-1), and 4599 (H-1) would amend the Michigan Penal Code, the Sex Offenders Registration Act (SORA), and the Code of Criminal Procedure, respectively, to do all of the following:

-- Establish an enhanced criminal penalty for indecent exposure if the violator fondled himself or herself while committing the violation ("aggravated indecent exposure").
-- Include a second or subsequent violation of aggravated indecent exposure among the offenses for which a person must register as a sex offender.
-- Include aggravated indecent exposure in the sentencing guidelines.

House Bills 4598 (H-1) and 4599 (H-1) are tie-barred to House Bill 4597.

House Bill 4597 (H-1)

Under the Michigan Penal Code, a person who knowingly makes any open or indecent exposure of his or her person or of the person of another is guilty of a misdemeanor punishable by up to one year's imprisonment or a maximum fine of $1,000, or both. If, at the time of a violation, the offender was a sexually delinquent person, the violation may be punishable by an indeterminate term of imprisonment of one day to life. (Under the Code, "sexually delinquent person" means any person whose sexual behavior is characterized by repetitive or compulsive acts that indicate a disregard of consequences or the recognized rights of others, or by the use of force upon another person in attempting sexual relations or by the commission of sexual aggressions against children under 16 years of age.)

Under the bill, in addition to the penalties described above, if a person fondled his or her genitals, pubic area, or buttocks, or if a female fondled her breasts, while committing indecent exposure, the violation would be a misdemeanor punishable by up to two years' imprisonment, a maximum fine of $2,000, or both.

House Bill 4598 (H-1)

The bill would include a second or subsequent violation of fondling while committing indecent exposure, as proposed by House Bill 4597 (H-1), in SORA's definition of "listed offense". The Act requires those convicted of a listed offense to register as a sex offender.

House Bill 4599 (H-1)

The bill would include the violation proposed by House Bill 4597 (H-1) in the sentencing guidelines. "Aggravated indecent exposure" would be a Class G felony against a person, with a statutory maximum sentence of two years. (Although the violation would be classified as a misdemeanor in House Bill 4597 (H-1), under the Code of Criminal Procedure, a violation punishable by imprisonment for more than one year is considered a felony.)

MCL 750.335a (H.B. 4597)　　　　　　　　　　　Legislative Analyst: Patrick Affholter
　　28.722 (H.B. 4598)
　　777.16q (H.B. 4599)

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of aggravated indecent exposure. An offender convicted of the Class G offense would receive a sentencing guidelines minimum sentence range of 0-3 months to 7-23 months. Local governments would incur the costs of incarceration in local facilities, which vary by county. If a misdemeanant's sentence were more than 12 months, the State would incur the cost of incarceration in a State facility at an average annual cost of $30,000. Public libraries would benefit from any additional penal fine revenue raised.

Fiscal Analyst: Bruce Baker
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