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BILL



ANALYSIS

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Senate Bill 1017 (Substitute S-1 as reported)
Senate Bill 1018 (Substitute S-1 as reported)
Sponsor: Senator Rick Jones
Committee: Judiciary

CONTENT

Senate Bill 1017 (S-1) would amend the Michigan Penal Code to prescribe a misdemeanor penalty for a person who assaulted or assaulted and battered an individual with a developmental disability, mental illness, or cognitive impairment, and who knew that the individual had a developmental disability, mental illness, or cognitive impairment; and a felony penalty for a person who committed such an act and had one or more previous convictions for that offense.

The misdemeanor would be punishable by up to one year's imprisonment and/or a maximum fine of \$1,000. The felony would be punishable by up to five years' imprisonment and/or a maximum fine of \$5,000.

The penalties would not apply to an individual using necessary reasonable physical force in compliance with the Revised School Code.

As used in the bill, "developmental disability" would mean that term as defined in Section 520a(b) of the Penal Code (i.e., an impairment of general intellectual functioning or adaptive behavior that meets all of the following:

- It originated before the person was 18 years of age.
- It has continued since its origination or can be expected to continue indefinitely.
- It constitutes a substantial burden to the impaired person's ability to perform in society.
- It is attributable to intellectual disability, cerebral palsy, epilepsy, autism, or any other condition of a person that produces a similar impairment or requires treatment and services similar to those required for a person described above).

"Mental illness" would mean that term as defined in Section 1001a of the Mental Health Code (i.e., a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life).

Senate Bill 1018 (S-1) would amend the Code of Criminal Procedure to include the felony proposed by Senate Bill 1017 (S-1) in the sentencing guidelines as a Class E felony against a person, with a statutory maximum sentence of five years' imprisonment.

Senate Bill 1018 (S-1) is tie-barred to Senate Bill 1017. Each bill would take effect 90 days after its enactment.

Proposed MCL 750.81f (S.B. 1017)
MCL 777.16d (S.B. 1018)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Senate Bill 1017 (S-1) could have a negative fiscal impact on the State and local government. The penalties in the bill would be generally more severe than those under current law. Longer misdemeanor and felony sentences could increase resource demands on community supervision, jails, and correctional facilities. For any increase in prison intakes, in the short term, the marginal cost to State government would be approximately \$3,764 per prisoner per year. In the long term, if the increased intake of prisoners increased the total prisoner population enough to require the Department of Corrections to open a housing unit or an entire facility, the marginal cost to State government would be approximately \$34,550 per prisoner per year. Any associated increase in fine revenue would be dedicated to public libraries.

Senate Bill 1018 (S-1) would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge* (in which the Court struck down portions of the sentencing guidelines law). According to one interpretation of that decision, the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction would depend on judicial decisions.

Date Completed: 7-21-16

Fiscal Analyst: Ryan Bergan

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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.