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BILL



ANALYSIS

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Senate Bills 1017 and 1018 (as introduced 6-7-16)

Sponsor: Senator Rick Jones

Committee: Judiciary

Date Completed: 7-11-16

CONTENT

Senate Bill 1017 would amend the Michigan Penal Code to prescribe a misdemeanor penalty for a person who assaulted or assaulted and battered a person with a developmental disability, and a felony penalty for a person who committed such an act and had one or more previous convictions for that offense.

Senate Bill 1018 would amend the Code of Criminal Procedure to include the felony proposed by Senate Bill 1017 in the sentencing guidelines.

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

Senate Bill 1017

Under the bill, a person who assaulted or assaulted and battered an individual with a developmental disability, and who knew that the individual had a developmental disability, would be guilty of a misdemeanor punishable by up to one year's imprisonment and/or a maximum fine of \$1,000. A person who committed the proposed offense, and had one or more previous convictions for assaulting or assaulting and battering an individual with a developmental disability, would be guilty of a felony punishable by up to five years' imprisonment and/or a maximum fine of \$5,000.

The penalties described above would not apply to an individual using necessary reasonable physical force in compliance with Section 1312 of the Revised School Code. (That section prohibits a person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy from inflicting corporal punishment upon any pupil under any circumstances, but authorizes an employee, volunteer, or contractor to use reasonable physical force upon a pupil as necessary to maintain order and control in a school or school-related setting for the purpose of providing an environment conducive to safety and learning.)

As used in the bill, "developmental disability" would mean that term as defined in Section 520a(b) of the Penal Code. (Under that section, "developmental disability" means 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 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.)

Senate Bill 1018

Under the bill, a second or subsequent offense of assault or assault and battery on a developmentally disabled individual would be a Class E felony against a person, with a statutory maximum sentence of five years' imprisonment.

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

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Senate Bill 1017

The bill 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

The bill 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.

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.