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BILL



ANALYSIS

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Senate Bills 1029 and 1030 (as introduced 6-9-16)
Sponsor: Senator Margaret E. O'Brien (S.B. 1029)
Senator David Knezek (S.B. 1030)
Committee: Judiciary

Date Completed: 9-1-16

CONTENT

Senate Bill 1029 would amend the Michigan Vehicle Code to prescribe misdemeanor and felony penalties for committing a moving violation that has criminal penalties, causing injury to or the death of a vulnerable roadway user (a pedestrian, wheelchair user, or person operating a transportation device).

Senate Bill 1030 would amend the Code of Criminal Procedure to include a moving violation causing death to a vulnerable roadway user in the sentencing guidelines.

Senate Bill 1030 is tie barred to Senate Bill 1029. Each of the bills would take effect 90 days after its enactment.

Senate Bill 1029

The Vehicle Code provides that a person who commits a moving violation that has criminal penalties and, as a result, causes injury to a person operating an implement of husbandry on a highway in compliance with the Code is guilty of a misdemeanor punishable by up to one year's imprisonment and/or a maximum fine of \$1,000. A person who commits such a violation and causes death to a person operating an implement of husbandry on a highway in compliance with the Code is guilty of a felony, punishable by up to 15 years' imprisonment and/or a maximum fine of \$7,500.

Under the bill, those penalties also would apply to a person who committed a moving violation that had criminal penalties and, as a result, caused injury to or the death of a vulnerable roadway user.

The bill would define "vulnerable roadway user" as a pedestrian, a wheelchair user, or a person operating a transportation device in compliance with the Code.

"Transportation device" would mean a device in, upon, or by which any person or property, or both, is or may be transported or drawn upon a highway by human power, or an electrical propulsion system with average power of 750 watts or one horsepower and a maximum speed on a paved level surface of 20 miles per hour, and that is regulated under the Code. The term would include, but not be limited to, the following:

- A cycle with one or more wheels, including a bicycle, or an electric bicycle that meets the requirements described above.
- An electric wheelchair that meets the requirements described above.

The Code defines "moving violation" as an act or omission prohibited under the Code or a local ordinance substantially corresponding to the Code that occurs while a person is operating a motor vehicle, and for which the person is subject to a fine.

Senate Bill 1030

Under the sentencing guidelines, a moving violation causing death to the operator of an implement of husbandry is a Class C felony against a person, with a statutory maximum sentence of 15 years' imprisonment. The bill would include in that sentencing guideline classification a moving violation causing death to a vulnerable roadway user.

MCL 257.601c (S.B. 1029)
777.12e (S.B. 1030)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Senate Bill 1029

The bill could have a negative fiscal impact on the State and local government. More misdemeanor and felony arrests and convictions could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. The average cost to State government for felony probation supervision is approximately \$3,024 per probationer per year. 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 1030

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.