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BILL



ANALYSIS

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House Bill 4463 (as passed by the House)  
Sponsor: Representative Kurt Heise  
House Committee: Criminal Justice  
Senate Committee: Judiciary

Date Completed: 6-8-15

### **CONTENT**

**The bill would amend Chapter 17 (Sentencing Guidelines) of the Code of Criminal Procedure to include in offense variable 7 (aggravated physical abuse) conduct that was "similarly egregious" to sadism, torture, or excessive brutality.**

Specifically, offense variable 7 requires the assignment of 50 points if a victim was treated with sadism, torture, or excessive brutality, or conduct designed to substantially increase the fear and anxiety a victim suffered during the offense. Under the bill, those points would have to be assigned if a victim were treated with sadism, torture, excessive brutality, or similarly egregious conduct designed to substantially increase the fear and anxiety a victim suffered during the offense.

(If no victim was treated in the manner described above, then no points are assigned under this offense variable.)

MCL 777.37

### **BACKGROUND**

Under Michigan law, the sentence for most felony crimes is indeterminate, meaning that a maximum penalty is prescribed in statute and the court sets the minimum penalty. To determine the minimum recommended sentence range for a particular criminal offender, Chapter 17 of the Code of Criminal Procedure requires the "scoring" of applicable offense variables and prior record variables (which are based on the number and severity of the offender's previous convictions and juvenile adjudications). That is, the court identifies which variables apply, based on the category of the offense; determines which components of the variables apply; and assigns points attributable to the one that has the highest number of points. (The various components are statements listed under each variable; offense variables generally relate to the circumstances under which the crime was committed, the offender's conduct during the crime, or the outcome of the crime; for example, higher or lower points may be assigned depending on the presence of victims, the severity of a victim's injuries, the value of damaged property, or whether the crime was premeditated.)

Based on the classification of the offense, the prior record variable level and the offense variable level then are plotted on a grid, which will show the minimum sentence range in months or life.

Legislative Analyst: Patrick Affholter

## **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on State and local government. With the addition of the "similarly egregious" language, offenses that are not currently captured under the existing variable of aggravated physical abuse could receive a higher sentencing guidelines score, which could result in increased incarceration costs for State and local government. For any new felony convictions, in the short term, the marginal cost to State government would be approximately \$4,100 per additional prisoner per year. Over the long term, the marginal cost to State government would be approximately \$31,100 per additional prisoner per year. Additionally, any increase in collected fine revenue would be dedicated to public libraries.

Fiscal Analyst: John Maxwell

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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.