



**House
Legislative
Analysis
Section**

House Office Building, 9 South
Lansing, Michigan 48909
Phone: 517/373-6466

**INCLUDE DATING RELATIONSHIP
IN DEF. OF DOMESTIC VIOLENCE**

**House Bill 5271 (Substitute H-1)
Sponsor: Rep. Gary A. Newell**

**House Bill 5272 (Substitute H-2)
Sponsor: Rep. Sue Tabor**

**House Bill 5274 (Substitute H-1)
Sponsor: Rep. William J. O’Neil**

**House Bill 5276 (Substitute H-1)
Sponsor: Rep. Randy Richardville**

**Committee: Criminal Justice
First Analysis (10-31-01)**

House Bills 5271-5272, 5274 and 5276 (10-31-01)

THE APPARENT PROBLEM:

Though “dating relationship” is currently included in the definition of “domestic relationships” for purposes of obtaining personal protection orders, it is not included in the definition of domestic violence incidents in regard to charging domestic relationship assault or assault and battery, nor is it included in various domestic violence reports filed by peace officers. This is an unfortunate oversight, as abusive behaviors in dating relationships can be just as brutal and just as lethal as in present or past marriage relationships or where there has been a child in common. The Domestic Violence Homicide Prevention Task Force targeted this issue as a prime concern in their report and recommendations on preventing homicides associated with domestic violence. Several bills, which are part of a larger package to implement the task force’s recommendations, have been introduced to make the necessary changes to various laws so that abuse that occurs in dating relationships will be treated in a similar manner to other domestic abuse incidents.

House Bill 5271 would amend Public Act 319 of 1968 (MCL 28.257), which provides for a uniform crime reporting system. Under the act, a report must be filed with the Department of State Police by a local law enforcement agency with specific information related to crimes of domestic assault. The bill would change this reference to domestic violence incidents and so would have to include the number of crimes reported (and the disposition of those offenses) involving an individual and his or her spouse, former spouse, an individual whom he or she has had a child in common or has had a dating relationship, and an individual who resided or had resided in the same household. The bill would also define “dating relationship” as frequent, intimate associations primarily characterized by the expectation of affectional involvement, but that does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context. The bill would take effect October 1, 2002.

THE CONTENT OF THE BILLS:

The bills would amend various acts to include a current or past dating relationship in the definition of domestic relationships for charging domestic relationship assault or assault and battery, domestic relationship aggravated assault, filing a domestic violence report, and denial of interim bond for domestic relationship arrests. Specifically, the bills would do the following:

House Bill 5272 would amend the Michigan Penal Code (MCL 750.81 and 750.81a). Currently, a domestic violence (or domestic relationship) assault, assault or battery, or aggravated assault includes an incident in which an individual assaults or assaults and batters his or her spouse or former spouse, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household. The bill would amend various provisions relating to first, second, and subsequent charges of domestic violence-related assault and assault and

battery to include an incident involving an individual with whom the person had or has had a dating relationship. The bill would also define “dating relationship” as it is in the Revised Judicature Act and the domestic violence act.

The bill would take effect April 1, 2002.

House Bill 5274 would amend the Code of Criminal Procedure (MCL 764.15c). Currently, after investigating or intervening in a domestic violence incident, a peace officer is required to prepare a domestic violence report. The bill would amend the definition of “domestic violence incident” to include a crime committed by an individual against an individual with whom he or she had or has had a dating relationship. (The act defines “dating relationship” as meaning that term as defined in the domestic violence act, Public Act 389 of 1978, MCL 400.1501.) By June 1, 2002, the Department of State Police would have to develop a standard domestic violence incident report form, which peace officers would use to file such reports. The new forms, or a substantially similar form, would have to be used by the peace officers as of October 1, 2002.

The effective date for the bill would be April 1, 2002.

House Bill 5276 would amend Public Act 1961 (MCL 780.582a), which provides for the release of misdemeanor prisoners by giving bond to the arresting officer. Under the act, a person can be released on bond or on his or her personal recognizance until the time of the arraignment. However, release on bond is not available to a person if arrested for domestic violence assaults without a warrant under the Code of Criminal Procedure or for an arrest with a warrant for assault, assault and battery, or aggravated assault under the Penal Code – unless a magistrate is unavailable for arraignment within 24 hours, in which case a person could be released on interim bond or on his or her own recognizance after being held for 20 hours. House Bill 5276 would include in the description of domestic violence-related assault, assault and battery, and aggravated assault those crimes committed against an individual with whom the person has had a dating relationship or with whom the person had a child in common. (“Dating relationship” means that term as defined in the Revised Judicature Act (MCL 600.2950), which is substantially the same as defined in Public Act 389 of 1978, above.) More substantially, however, the bill would remove the provision allowing a person interim bond after being held for 20 hours. Instead, the person would have to be held until arraignment or until a judge or district

court magistrate could set interim bond. If interim bond were set by a judge or magistrate, release would be subject to the condition that he or she have no contact with the victim, or attempt to contact the victim in any way.

The person would have to be informed on the record of the specific conditions imposed and that violations of the conditions of release would subject the person to rearrest (without a warrant), forfeiture of bond, and new conditions of release imposed, in addition to any other penalties that can be imposed if he or she were found in contempt of court. The bill would specify information to be included on any order or amended order issued if a person violated the bond conditions, and require this order or amended order to be entered into the Law Enforcement Information Network (LEIN). Should the order or amended order be rescinded, it would be removed from LEIN. The bill would not limit the authority of judges or magistrates to impose protective or other release conditions under other applicable statutes or court rules.

The bill would take effect April 1, 2002.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bills would have the following fiscal impacts:

House Bill 5271 would have no significant fiscal impact on state or local government. House Bill 5272 could increase state or local correctional costs, depending on the numbers and types of convictions obtained. It also could increase penal fine revenues going to local libraries. There are no data to indicate the extent to which local costs could increase under the bill; however, any increase in state costs is likely to be minimal, because data indicate that there were no felony dispositions for domestic assault or aggravated domestic assault in 1999. House Bill 5274 would have no direct fiscal impact on state or local government. House Bill 5276 could affect jail utilization and jail costs, depending on the numbers of offenders involved and the speed with which they can be arraigned. However, any fiscal impact is likely to be minimal. (10-31-01)

ARGUMENTS:

For:

Domestic violence is not limited to assaults on spouses or former spouses. Many people live together or date for many years without marrying. Also, not all of these relationships produce a child in

common. Further, domestic violence is not the domain of long-term relationships, but can also be exhibited within weeks or months of the beginning of a romantic involvement. Currently, the domestic violence laws cover current and former marriage relationships or relationships that produced a child in common. By including “dating relationships”, a person can be charged with domestic assault or assault and battery, which can carry a stiffer penalty than simple assault or assault and battery. Without intervention, domestic violence is a repetitive crime. If a person abuses someone that they are dating, the abuse is likely to continue for as long as the couple stays together, and the abuser is likely to continue abusive behaviors in any future relationships. Therefore, including dating relationships in what defines a domestic violence incident is an important protection for victims of domestic assault, and provides proper accountability for those who would abuse people with whom they are having or have had a relationship.

For:

House Bill 5276 would eliminate the current practice of releasing persons arrested for domestic violence and assault related crimes before arraignment after being held for 20 hours in situations where a judge or magistrate is not available. Under the bill, a person arrested for such crimes could only be released after arraignment or after he or she had bond set by a court. Further, until the arraignment, the person could not contact the victim, or attempt to do so, in any way. This will provide much needed protection for victims of domestic violence, who are particularly vulnerable during this time period to reprisals by the abuser or by conciliatory behaviors meant to dissuade the victim from further prosecution.

Response:

Though the time period between arrest and arraignment is generally short, it can be as long as 48 to 60 hours for weekend and holiday periods. To make interim bond and release conditional on no contact – regardless of the circumstances involved – seems harsh. It is at the arraignment that the judge decides if there is evidence to support the charge. So, without such a determination, a person could not even make arrangements to pick up clothes, car keys, and so on since that would be construed as making contact if the person lived with the victim or had left something of importance at the victim’s residence. Even having a friend or relative contact the victim to retrieve personal items could be construed as contact. Of course the victim should be protected, but some initial, perhaps court-supervised arrangement of how

to transfer necessary personal property should be allowed.

POSITIONS:

The Office of the Governor supports the bills. (10-30-01)

The Prosecuting Attorneys Association of Michigan (PAAM) supports the concept of the bills. (10-30-01)

The Michigan Coalition Against Domestic and Sexual Violence is in strong support of the concept of the bills. (10-30-01)

The National Organization for Women/Michigan has no position at this time, as there has not been an opportunity to review the bills as amended. (10-30-01)

The Michigan Advocacy Project does not have a position at this time as it has not had an opportunity to review the bills as amended. (10-30-01)

Analyst: S. Stutzky

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.