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**SFA**

BILL ANALYSIS

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House Bill 5272 (Substitute H-2 as passed by the House)  
Sponsor: Representative Sue Tabor  
House Committee: Criminal Justice  
Senate Committee: Families, Mental Health and Human Services

Date Completed: 12-3-01

### **CONTENT**

**The bill would amend the Michigan Penal Code to include dating relationships in the circumstances that can trigger penalties for domestic assault.** Currently, these penalties apply when assault is committed against a spouse or former spouse, a person with whom the offender has had a child in common, or a resident or former resident of the offender's household. The bill would take effect on April 1, 2002.

"Dating relationship" would mean frequent, intimate associations primarily characterized by the expectation of affectional involvement. The term would not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.

#### Simple Assault

Under the Code, assault is a misdemeanor punishable by up to 90 days' imprisonment and/or a maximum fine of \$500, if no other punishment is prescribed by law. The maximum term of imprisonment is 93 days, if the assault is committed against a spouse or former spouse, an individual with whom the offender has had a child in common, or a person who is or was a resident of the offender's household (domestic assault).

Domestic assault is punishable by up to one year's imprisonment and/or a maximum fine of \$1,000 if the offender previously has been convicted of domestic assault or any of the following in a domestic situation:

- Aggravated assault (MCL 750.81a).
- Assault with a dangerous weapon (MCL 750.82).
- Assault with intent to commit murder (MCL 750.83).
- Assault with intent to do great bodily harm (MCL 750.84).
- Assault with intent to maim (MCL 750.86).

If an offender has two or more previous convictions, domestic assault is a felony punishable by up to two years' imprisonment and/or a maximum fine of \$2,500.

The bill would add to each of those domestic assault penalty provisions a violation against an individual with whom the offender currently or previously had a dating relationship.

#### Aggravated Assault

Under the Code, assaulting an individual without a weapon and inflicting an aggravated injury

upon that individual without intending to commit murder or to inflict great bodily harm (aggravated assault) is a misdemeanor punishable by up to one year's imprisonment and/or a maximum fine of \$1,000. The same penalty applies if aggravated assault is committed against the offender's spouse or former spouse, an individual with whom he or she has had a child in common, or a resident or former resident of the same household as the offender (aggravated domestic assault).

Aggravated domestic assault is a felony punishable by up to two years' imprisonment and/or a maximum fine of \$2,500 if the offender previously has been convicted of domestic assault, aggravated domestic assault, or any of the following in a domestic situation:

- Assault with a dangerous weapon.
- Assault with intent to commit murder.
- Assault with intent to do great bodily harm.
- Assault with intent to maim.

The bill would add to each of those aggravated domestic assault penalty provisions a violation against an individual with whom the offender currently or previously had a dating relationship.

MCL 750.81 & 750.81a

Legislative Analyst: P. Affholter

### **FISCAL IMPACT**

House Bill 5272 (S-2) would have an indeterminate fiscal impact on State and local government.

In 1999, 282 people were convicted of some type of attempt or act of domestic violence. There are no data available to indicate how many more offenders a year would be convicted if domestic violence were expanded to include victims with whom the offender has had a dating relationship. Offenders convicted of first-offense domestic violence receive misdemeanor sentences of up to 93 days. A second-time offender may receive up to one year's imprisonment, and a third offense is a Class G felony, which has a minimum sentence range of 0-3 months to 7-23 months.

Offenders convicted of a first-time misdemeanor would be subject to probation or incarceration in a local facility. In most cases, offenders convicted of a second or third offense also would be subject to probation or incarceration in a local facility. Local units would incur the cost of probation as well as the cost of incarceration, which may vary between \$27 and \$62 per day. Third-time offenders, however, would be eligible for a prison sentence. The State would incur the cost of felony probation, estimated at \$4.23 per day, and the cost of incarceration in a State facility, at an average annual cost of \$22,000. In the absence of data, if one assumes that 10 additional offenders would be convicted, sentenced to prison, and receive the longest minimum sentence, the cost to the State would be \$420,000.

Fiscal Analyst: B. Wicksall

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