

Legislative Analysis



TECHNICAL REVISIONS TO CODE OF CRIMINAL PROCEDURE

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House Bill 5409 (Substitute H-2)
Sponsor: Rep. Barb Vander Veen
Committee: Criminal Justice

First Analysis (12-1-04)

BRIEF SUMMARY: The bill would revise two sections of the sentencing guidelines portion of law and would make several other revisions relating to crimes that involve individuals in a dating relationship.

FISCAL IMPACT: The bill would have no fiscal impact on state or local units of government.

THE APPARENT PROBLEM:

House Bill 5291 of the 2001-2001 legislative session would have amended the Code of Criminal Procedure to enhance the penalty for crimes committed in the presence of a child. The bill was also used as a vehicle at the end of 2002 to "clean up" other provisions of the code that needed revision. For example, when a package of bills revised the state's domestic violence related laws, the definition of "domestic violence" contained in several statutes was revised to include persons in a dating relationship. However, two sections in the Code of Criminal Procedure were missed. House Bill 5291 was subsequently amended to correct these oversights.

However, the bill was vetoed by then Governor John Engler for several reasons, all pertaining to the revisions that would have resulted in increased prison time for crimes witnessed by a child. Unfortunately, the cleanup provisions went down at the same time, and, two years later, the corrections still need to be made.

THE CONTENT OF THE BILL:

House Bill 5409 would amend the Code of Criminal Procedure (MCL 764.1a et al.) to revise two sections of the sentencing guidelines portion of the code and to make several other revisions relating to crimes that involve individuals in a dating relationship.

Section 15g of the code currently specifies that the crime of an intentional false report of child abuse constituting a felony has a statutory maximum term of imprisonment of four years, even though a sentence can be based on the punishment allowed for the level of child abuse that the false report alleged. The bill would instead specify that the maximum term of imprisonment would be "variable."

Section 16m specifies that wearing body armor during the commission of a violent crime – in violation of MCL 750.227f (Section 227f of the Michigan Penal Code) – is a Class F

felony against the public safety with a four-year maximum term of imprisonment. The bill would replace “violent crime” with “certain crimes”.

Further, the bill would include crimes committed by an individual with whom the victim had or has had a dating relationship in a provision prohibiting a magistrate from refusing to accept a complaint alleging a violation of the assault laws and a provision pertaining to written policies for police officers responding to domestic violence calls. In both instances, “dating relationship” would mean frequent, intimate associations primarily characterized by the expectation of affectional involvement. Dating relationship would not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.

ARGUMENTS:

For:

The bill is technical in nature and would merely revise several provisions in the Code of Criminal Procedure to provide consistency with language contained in other state laws.

POSITIONS:

A representative of the Michigan Coalition Against Domestic and Sexual Violence testified in support of the bill. (12-1-04)

A representative of the Michigan Domestic Violence Prevention and Treatment Board indicated support for the bill. (12-1-04)

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■ 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.