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BILL ANALYSIS



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Senate Bill 528 (as introduced 9-26-23)
Sponsor: Senator Sue Shink
Committee: Civil Rights, Judiciary, and Public Safety

Date Completed: 9-27-23

CONTENT

The bill would amend the Michigan Penal Code to prescribe separate misdemeanor penalties and fines for specified violations of the Code, such as breaking and entering and vulnerable adult abuse, if the violator were the victim's spouse or former spouse, had a dating relationship with the victim, had a child in common with the victim, or was a resident or former resident of the victim's household.

The bill is tie-barred to Senate Bill 471, which generally would prohibit a person convicted of a misdemeanor that involved domestic violence from possessing and using a firearm or ammunition in the State until specified requirements were met.

(The bill would define "dating relationship" as frequent, intimate associations primarily characterized by the expectation of affectional involvement. The term would not include a casual relationship or ordinary fraternization of two individuals in a business or social context.)

Breaking and Entering

Under the Code, an individual who breaks and enters or enters without breaking any dwelling or structure, whether occupied or unoccupied, without first obtaining permission from the owner, occupant, or appropriate agent or person is guilty of a misdemeanor.

Under the bill, if an individual acts as described above and the owner or occupant, agent, or person having immediate control of the dwelling or structure is the individual's spouse or former spouse, an individual with whom the individual had a dating relationship, an individual with whom the individual had a child in common, or a resident or former resident of the individual's household, the individual would be guilty of a misdemeanor.

Vulnerable Adult Abuse

Among other degrees of vulnerable adult abuse, a caregiver or other person with authority over a vulnerable adult is guilty of vulnerable adult abuse in the fourth degree if the reckless act or reckless failure to act causes physical harm to the vulnerable adult or a caregiver or other person with authority over a vulnerable adult knowingly commits an act that poses an unreasonable risk of harm or injury to a vulnerable adult. Vulnerable adult abuse in the fourth degree is a misdemeanor punishable by up to one year's imprisonment or a fine of up to \$1,000, or both.

("Vulnerable adult" generally includes an individual aged 18 or over who, because of age, developmental disability, mental illness, or physical disability requires supervision or personal care.)

Under the bill, a caregiver or other person with authority over the vulnerable adult would be guilty of vulnerable adult abuse in the fourth degree if the caregiver or other person with authority over the vulnerable adult violated the provisions described above and one or more of the following circumstances applied:

- The caregiver or other person with authority over the vulnerable adult was the spouse or former spouse of the victim.
- The caregiver or other person with authority over the vulnerable adult was an individual with whom the victim had a dating relationship.
- The caregiver or other person with authority over the vulnerable adult was an individual with whom the victim had a child in common.
- The caregiver or other person with authority over the vulnerable adult was a resident or former resident of the victim's household.

Destruction of Property

Under the Code, a person who willfully and maliciously destroys or injures the personal property of another person is guilty of specified crimes. Under the bill, if the person and the property owner were spouses or former spouses, had a dating relationship, had a child in common, or were residents or former residents of the same household, and any of the following applied, the person would be guilty of a misdemeanor punishable by up to one year's imprisonment or a fine of up to \$2,000 or three times the amount of the destruction or injury, whichever was greater, or both:

- The amount of the destruction or injury was \$200 or more but less than \$1,000.
- The destruction or injury was less than \$200 and the person had one or more prior convictions for committing or attempting to commit such an offense.

In addition, a person who willfully and maliciously destroyed or injured the personal property of another person would be guilty of a misdemeanor punishable by up to 93 days' imprisonment or a fine of up to \$500 or three times the amount of destruction or injury, whichever was greater, or both, if the person and the property owner were spouses or former spouses, had a dating relationship, had a child in common, or were residents or former residents of the same household.

The Code also prohibits a person from willfully or maliciously destroying or injuring another person's house, barn, or other building or its appurtenances. Under the bill, if the person and the property owner were spouses or former spouses, had a dating relationship, had a child in common, or were residents or former residents of the same household and if any of the following applied, the person who violated this prohibition would be guilty of a misdemeanor punishable by up to one year's imprisonment or a fine of up to \$2,000 or three times the amount of the destruction or injury, whichever was greater, or both:

- The amount of the destruction or injury was \$200 or more but less than \$1,000.
- The destruction or injury was less than \$200 and the person had one or more prior convictions for committing or attempting to commit such an offense.

In addition, a person who willfully and maliciously destroyed or injured another person's house, barn, or other building or its appurtenances would be guilty of a misdemeanor punishable by up to 93 days' imprisonment or a fine of up to \$500 or three times the amount of destruction or injury, whichever was greater, or both, if the person and the property owner were spouses or former spouses, had a dating relationship, had a child in common, or were residents or former residents of the same household.

Stalking

Under the Code, an individual who engages in stalking is guilty of a misdemeanor or felony, depending on the specified circumstances. Under the bill, a person who engaged in stalking would be guilty of a misdemeanor punishable by up to one year's imprisonment or a fine of up to \$1,000, or both, if the victim and the individual were spouses or former spouses, had a dating relationship, had a child in common, or were residents or former residents of the same household.

Malicious Use of Telecommunications Services

The Code generally prescribes a misdemeanor to a person who maliciously uses any services provided by a telecommunications service provider with the intent to terrorize, intimidate, harass, or annoy another person. Examples of prohibited actions when using these services include threatening physical harm or damage to any person or property during a conversation or message and falsely reporting the injury, illness, or death of another person, among other prohibited actions that could result in a misdemeanor.

Under the bill, a person who used any services provided by a telecommunications service provider with the intentions and actions described above would be guilty of a misdemeanor if the person and the other person were spouses or former spouses, had a dating relationship, had a child in common, or were residents or former residents of the same household.

MCL 750.115 et al.

Legislative Analyst: Tyler P. VanHuyse

FISCAL IMPACT

The bill could have a negative fiscal impact on district courts to an indeterminate degree. The fiscal impact would be associated with costs for additional charges, hearings, and/or trials for the additional crimes created in the bill.

Additionally, the bill would have a negative fiscal impact on the State and local government. New misdemeanor arrests and convictions under the proposed bill could increase resource demands on law enforcement, community supervision, and jails; however, it is unknown how many people would be prosecuted under the provisions of the bill. Any additional revenue from imposed fines would go to local libraries and county law libraries.

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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.