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Senate Bill 596 (as introduced 9-7-11)
Senate Bill 755 (as introduced 10-13-11)
Sponsor: Senator Roger Kahn, M.D. (S.B. 596)
Senator Rick Jones (S.B. 755)
Committee: Judiciary

Date Completed: 10-18-11

CONTENT

Senate Bill 596 would amend the Michigan Penal Code to eliminate the maximum age of a student in third- and fourth-degree criminal sexual conduct (CSC) violations involving a student and a school official, employee, contractor, or volunteer or a government employee providing service to a school, district, or intermediate school district (ISD).

Senate Bill 755 would amend Public Act 189 of 1966, which prescribes search warrant procedures, to remove reference to a fourth-degree CSC violation involving special education students, from a provision requiring the court to authorize the search and seizure of hair, tissue, blood, or other fluids.

Senate Bill 755 is tie-barred to Senate Bill 596.

Senate Bill 596

Under the Penal Code, a person is guilty of third-degree CSC if he or she engages in sexual penetration with another person, or is guilty of fourth-degree CSC if he or she engages in sexual contact with another person, and any of certain sets of circumstances exists. Under one set of circumstances, the other person is at least 16 years of age, but less than 18, and is a student at a public school or nonpublic school, and either of the following applies:

- The actor is a teacher, substitute teacher, or administrator of the school, district, or ISD, unless the other person is emancipated or the two people are lawfully married to each other at the time of the alleged violation.
- The actor is an employee or contractual service provider of the school, district, or ISD in which the other person is enrolled, is a nonstudent volunteer, or is a government employee assigned to provide any service to the school, district, or ISD and uses his or her status to gain access to or establish a relationship with the other person.

The bill would delete the qualifier that the other person be less than 18. Under the bill, then, the action would be third-degree or fourth-degree CSC if the other person were at least 16 years of age.

The Code also contains similar provisions under which a violation is third- or fourth-degree CSC when the other person is at least 16 but less than 26 and is receiving special education services. The bill would delete those provisions.

Senate Bill 755

Under Public Act 189 of 1966, if the court has probable cause to believe that an individual committed a CSC violation listed in the Act, the court must, upon proper petition for a search warrant, authorize the search and seizure of hair or tissue, or blood or other fluid samples from all of the following:

- Any individual whom the court has probable cause to believe committed the violation.
- A child, if the court has probable cause to believe that the violation resulted in the birth of a child.
- The remains of an unborn child, if the court has probable cause to believe that the violation resulted in a terminated pregnancy.

The bill would delete from that requirement reference to a fourth-degree CSC violation in which the other person was at least 16 but less than 26 and was receiving special education services and the actor was either of the following:

- A teacher, substitute teacher, administrator, employee, or contractual service provider of the school, district, or ISD, and was not lawfully married to the other person.
- A nonstudent volunteer or a government employee assigned to provide any service to the school, district, or ISD who used his or her status to gain access to or establish a relationship with the other person.

(As noted above, Senate Bill 596 would delete that fourth-degree CSC violation from the Penal Code.)

MCL 750.520d & 750.520e (S.B. 596)
780.652a (S.B. 755)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have an indeterminate impact on State and local government. There are no data that would indicate how many new convictions would occur under the expanded definition contained in Senate Bill 596. Additional charges and convictions would lead to an increase in State and local incarceration costs.

Fiscal Analyst: Steve Angelotti

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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.