



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bills 845 through 848 (as enacted)
Sponsor: Senator Rick Jones (S.B. 845)
Senator Tory Rocca (S.B. 846)
Senator Tonya Schuitmaker (S.B. 847)
Senator Steve Bieda (S.B. 848)

Senate Committee: Judiciary
House Committee: Judiciary

Date Completed: 1-7-13

PUBLIC ACTS 364-367 of 2012

CONTENT

Senate Bill 845 amends the Code of Criminal Procedure to specify that a deferral and dismissal of a domestic violence assault conviction constitutes a prior conviction in a prosecution for domestic assault or aggravated assault with one or more prior convictions.

Senate Bill 846 amends the Code of Criminal Procedure to revise the sentencing guideline for domestic assault and aggravated assault with prior convictions, to reflect increased penalties enacted by Senate Bill 847, and to include a felony enacted by Senate Bill 848.

Senate Bill 847 amends the Michigan Penal Code to increase the felony penalties for domestic assault and aggravated assault when the individual who commits either offense has two or more previous convictions for domestic assault.

Senate Bill 848 amends the Michigan Penal Code to prescribe a felony penalty for assault by strangulation or suffocation.

Senate Bill 846 was tie-barred to Senate Bills 847 and 848. All of the bills will take effect on April 1, 2013.

Senate Bill 845

Under the Code of Criminal Procedure, when an individual who has not been convicted

previously of an assaultive crime pleads guilty to, or is found guilty of, domestic assault or aggravated domestic assault, the court may defer further proceedings and place the accused on probation without entering a judgment of guilt.

When the terms and conditions of the deferral and probation are fulfilled, the court must discharge the person and dismiss the proceedings against him or her. Discharge and dismissal must be without adjudication of guilt and are not a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

Under the bill, however, a deferral and dismissal under these provisions will constitute a prior conviction in a prosecution for domestic assault under Sections 81(3) and 81(4), and aggravated domestic assault under Section 81a(3) of the Michigan Penal Code. (Section 81(3) prescribes the penalty for a person who is convicted of domestic assault and has a prior domestic assault conviction; Section 81(4) prescribes the penalty for a person who is convicted of domestic assault and has two or more prior domestic assault convictions; and Section 81a(3) prescribes the penalty for a person who is convicted of aggravated domestic assault and has one or more prior domestic assault convictions.)

Senate Bill 846

Under the Code of Criminal Procedure, domestic assault with prior convictions and

aggravated domestic assault with prior convictions both are Class G felonies against a person, with a statutory maximum penalty of two years' imprisonment. Under the bill, both violations will be Class E felonies against a person, with a statutory maximum penalty of five years' imprisonment.

In addition, assault by strangulation or suffocation will be a Class D felony against a person with a statutory maximum penalty of 10 years' imprisonment.

Senate Bill 847

Under the Penal Code, if an individual commits domestic assault and has two or more previous convictions for domestic assault, he or she is guilty of a felony punishable by up to two years' imprisonment, a maximum fine of \$2,500, or both. The same penalty applies for aggravated domestic assault when the individual has one or more previous convictions for domestic assault.

The bill will increase both penalties to a maximum of five years' imprisonment and/or a maximum fine of \$5,000.

(An individual commits domestic assault if he or she assaults or assaults and batters his or her spouse or former spouse, an individual with whom he or she has or has had a dating relationship, an individual with whom he or she has had a child in common, or a resident or former resident of his or her household. Aggravated domestic assault involves the infliction of serious or aggravated injury.)

Senate Bill 848

Under Section 84 of the Penal Code, a person who assaults another with intent to do great bodily harm, less than murder, is guilty of a felony punishable by up to 10 years' imprisonment and/or a maximum fine of \$5,000. Under the bill, the same penalty will apply to a person who assaults another by strangulation or suffocation.

The bill defines "strangulation or suffocation" as intentionally impeding normal breathing or circulation of the blood by applying pressure on the throat or neck or by blocking the nose or mouth of another person.

The bill specifies that Section 84 does not prohibit a person from being charged with, convicted of, or punished for any other violation of law arising out of the same conduct.

MCL 769.4a (S.B. 845)
777.16d (S.B. 846)
750.81 (S.B. 847)
750.84 (S.B. 848)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

Senate Bills 845, 846, & 847

The bills will have an indeterminate fiscal impact on State and local government. By lengthening the maximum sentence for repeat domestic assault offenders, the bills may increase the average length of stay in State facilities and thereby increase incarceration costs. The average annual cost of incarceration in a State facility is approximately \$34,000. The increased maximum penal fine may generate additional revenue for public libraries.

Senate Bill 848

The bill will have an indeterminate fiscal impact on State and local government. The impact this bill will have on fines and length of sentence will vary based on the circumstances of each offense. If the aggregate impact results in lengthened average prison terms, the State will incur increased incarceration costs. The bill also may affect local government costs as it may result in an offender's being housed at a State facility instead of a local facility.

Fiscal Analyst: Dan O'Connor

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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.