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SFA



BILL ANALYSIS

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Senate Bills 70 and 71 (as introduced 2-1-01)
Sponsor: Senator Bill Schuette (Senate Bill 70)
Senator William Van Regenmorter (Senate Bill 71)
Committee: Judiciary

Date Completed: 2-6-01

CONTENT

Senate Bills 70 and 71 would amend the Code of Criminal Procedure and the Michigan Penal Code, respectively, to include intending to cause and causing the death of an embryo or fetus in the penalty provisions for intentional assault upon a pregnant woman, and to include death to an embryo or fetus in the corresponding sentencing guidelines classifications. Senate Bill 70 is tie-barred to Senate Bill 71.

Senate Bill 70

The bill would include causing death to an embryo or fetus, as proposed by Senate Bill 71, in each of the existing sentencing guidelines classifications for the felonies in Table 1.

Table 1

Offense	Category	Class	Stat. Max.
Assault against a pregnant woman, causing miscarriage or stillbirth, with intent or recklessness	Person	A	Life
Assault against a pregnant woman, resulting in miscarriage or stillbirth	Person	C	15 years
Assault against a pregnant woman, resulting in great bodily harm to the embryo or fetus	Person	D	10 years

Senate Bill 71

Under the Michigan Penal Code, intentionally committing any of various assault offenses against a pregnant woman is punishable by up to 15 years' imprisonment, a maximum fine of \$7,500, or both, if the violation results in a miscarriage or stillbirth. The offense is punishable by imprisonment for life or any term of years, however, if both of the following apply:

- The person intended to cause a miscarriage or stillbirth or great bodily harm to the woman's embryo or fetus, or acted in wanton and willful disregard of the likelihood that the natural tendency of his or her conduct would be to cause a miscarriage or stillbirth or great bodily harm to the embryo or fetus.
- The person's conduct resulted in a miscarriage or stillbirth.

The bill would add death of an embryo or fetus to each of those provisions.

(The assault offenses to which the penalties apply include assault for which no other punishment is prescribed, or assault of a spouse or former spouse, an individual with whom the offender has had a child,

or a resident or former resident of the same household (MCL 750.81); assault, without a weapon, that inflicts serious or aggravated injury (MCL 750.81a); assault with a dangerous weapon without intent to commit murder or inflict great bodily harm (MCL 750.82); assault with intent to commit murder (MCL 750.83); assault with intent to do great bodily harm less than murder (MCL 750.84); assault with intent to maim (MCL 750.86); assault for which the punishment is not otherwise prescribed, with intent to commit a felony (MCL 750.87); unarmed assault with intent to rob and steal (MCL 750.88); and armed assault with intent to rob and steal (MCL 750.89.)

MCL 777.16d (S.B. 70)
750.90a & 750.90b (S.B. 71)

Legislative Analyst: P. Affholter

FISCAL IMPACT

Senate Bills 70 and 71 would have an indeterminate fiscal impact on State and local government. The impact is indeterminate because there are no data to indicate how many more offenders could be convicted of assault against a pregnant individual causing miscarriage or stillbirth, if death to an embryo or a fetus were added to the crimes.

Fiscal Analyst: K. Firestone

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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.