

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 733 (Substitute S-1 as reported)
Sponsor: Senator Shirley Johnson
Committee: Judiciary

CONTENT

The bill would amend the Code of Criminal Procedure to allow a court to admit evidence of other acts of domestic violence when a defendant was accused of committing a crime of domestic violence. Evidence of an act that occurred more than 10 years before the charged offense would not be admissible, however, unless the court determined that admitting the evidence was in the interest of justice.

If a defendant were accused of committing a crime involving domestic violence or violating a personal protection order and the victim were the defendant's spouse or former spouse, an individual with whom the defendant had had a child in common, an individual with whom the defendant currently or previously had a dating relationship, or a resident or former resident of the same household as the defendant, evidence of the defendant's commission of other acts of domestic violence would be admissible and would not be prohibited by Michigan Rule of Evidence 404 (which states, "Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith").

"Domestic violence" would include causing or attempting to cause physical or mental harm; placing in fear of physical or mental harm; causing or attempting to cause involuntary sexual activity by force, threat, or duress; or engaging in activity that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

Proposed MCL 768.27b

Legislative Analyst: P. Affholter

FISCAL IMPACT

To the extent that the admission of prior acts of domestic violence as evidence would increase the number of convictions for domestic violence or violation of a personal protection order, the bill could result in increased costs to State and local government.

In 1999, 282 people were convicted of some type of attempt or act of domestic violence. First-time domestic violence offenders receive a misdemeanor sentence of up to 93 days in a local facility or may be subject to probation. Local units would incur the cost of probation as well as the cost of incarceration, which may vary between \$27 and \$62 per day. A second-time offender may receive up to one year's imprisonment, and a third offense is a Class G felony, which has a minimum sentence range of 0-3 months to 7-23 months. In most cases, offenders convicted of a second or third offense also would be subject to probation or incarceration in a local facility, and third-time offenders would be eligible for a prison sentence. The State would incur the cost of felony probation, estimated at \$4.23 per day, and the cost of incarceration in a State facility, at an annual average cost of \$22,000. If one additional offender were convicted and sentenced to prison, and received the longest minimum sentence, the cost to the State would be \$42,000.

Date Completed: 11-2-01

Fiscal Analyst: B. Wicksall

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Bill Analysis @ <http://www.senate.state.mi.us/sfa>

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