

Legislative Analysis



DISCHARGE AND DISMISSAL IN DOMESTIC VIOLENCE CASES

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House Bill 5968

Sponsor: Rep. Tonya Schuitmaker

Committee: Judiciary

Complete to 5-16-06

A SUMMARY OF HOUSE BILL 5968 AS INTRODUCED 4-25-06

Currently, if a person pleads guilty to or is found guilty of domestic violence involving assault and battery or aggravated assault (inflicting serious or aggravated injury without a weapon), the proceedings against the accused may be deferred and the accused placed on probation. At the successful completion of probation, the person is discharged and the proceedings dismissed; a discharge and dismissal does not count as a conviction. A person may only have one discharge and dismissal of an assault and battery or aggravated assault charge and is only eligible if he or she had no previous convictions of assault and battery or aggravated assault.

House Bill 5968 would amend the Code of Criminal Procedure (MCL 769.4a) to instead require, as a condition for eligibility for discharge and dismissal of an assault and battery or aggravated assault charge, that the accused had not been previously convicted of an assaultive crime. Currently, "assaultive crime" is defined as that term is defined in Section 9a of Chapter X of the code and/or a violation of Chapter XI of the Michigan Penal Code (entitled "Assaults"). The bill would also include as an assaultive crime a violation of a local ordinance substantially corresponding to a violation described above.

FISCAL IMPACT:

To the extent that the bill barred discharge and dismissal for certain assault offenders, it could increase state or local correctional costs. If the instant offense was a felony, the state could incur costs of felony probation supervision (at approximately \$2,000 per supervised offender annually) or prison incarceration (which averages \$30,000 per prisoner per year). If the felon was sentenced to jail, the county could incur increased costs; county jail costs vary by county. If the instant offense was a misdemeanor, the bill could increase local costs of misdemeanor probation, jail incarceration, or both. To the extent that fine revenues increased, the bill could benefit local libraries, which are the constitutionally-designated recipients of those revenues.

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