



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bills 845, 846, and 847 (as introduced 11-10-11)

Sponsor: Senator Rick Jones (S.B. 845)

Senator Tory Rocca (S.B. 846)

Senator Tonya Schuitmaker (S.B. 847)

Committee: Judiciary

Date Completed: 1-13-12

CONTENT

Senate Bill 847 would amend the Michigan Penal Code to increase the felony penalty for domestic assault when the individual who commits the offense has two or more previous convictions for domestic assault.

Senate Bill 846 would amend the Code of Criminal Procedure to revise the sentencing guideline for domestic assault with prior convictions, to reflect the increased penalty proposed by Senate Bill 847.

Senate Bill 845 would amend the Code of Criminal Procedure to specify that a deferral and dismissal of a domestic violence assault conviction would constitute a prior conviction in a prosecution for domestic assault with a prior conviction.

Senate Bill 846 is tie-barred to Senate Bill 847.

Senate Bill 847

Under the Penal Code, if an individual commits domestic assault (i.e., 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), 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 bill would increase this penalty to a maximum of five years' imprisonment, a fine of up to \$5,000, or both.

Senate Bill 846

Under the sentencing guidelines, domestic assault with prior convictions is a Class G felony against a person, with a statutory maximum penalty of two years' imprisonment. Under the bill, it would be a Class E felony against a person, with a statutory maximum penalty of five years' imprisonment.

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, the

court may defer further proceedings and place the accused on probation without entering a judgment of guilt. This may be done only with the consent of the accused and of the prosecuting attorney in consultation with the victim. Before deferring proceedings, the court must contact the Michigan Department of State Police and determine whether the accused has previously been convicted of an assaultive crime or has previously availed himself or herself of deferral for domestic assault.

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 would constitute a prior conviction in a prosecution for domestic assault under Section 81(3) of the Michigan Penal Code. (That section prescribes the penalty for a person who is convicted of domestic assault and has a prior domestic assault conviction.)

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

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. By lengthening the maximum sentence for repeat domestic assault offenders, the bills could 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 could generate additional revenue for public libraries.

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.