



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 5658 (Substitute H-1 as reported without amendment)
Sponsor: Representative Laura Cox
House Committee: Law and Justice
Senate Committee: Judiciary

CONTENT

The bill would amend the Code of Criminal Procedure to allow a court to admit evidence of a defendant's prior commission of sexual assault; and specify conditions under which a court could admit evidence of sexual assault that occurred more than 10 years before the charged offense.

Under Section 27b of the Code, except as provided for acts occurring more than 10 years before the charged offense, in a criminal action in which the defendant is accused of an offense involving domestic violence, evidence of the defendant's commission of other acts of domestic violence is admissible for any purpose for which it is relevant, if it is not excluded under a Michigan Rule of Evidence. Under the bill, if a defendant were accused of sexual assault, evidence of his or her other acts of sexual assault also could be admitted under Section 27b.

Currently, evidence of an act occurring more than 10 years before the charged offense is inadmissible under Section 27b unless the court determines that admitting the evidence is in the interest of justice. Under, the bill, if the act were a sexual assault, such evidence also could be admitted if one or more of the following applied: 1) the sexual assault was reported to law enforcement within five years of the date of the assault; 2) a sexual assault evidence kit was collected; or 3) the testing of evidence connected to the sexual assault resulted in a DNA identification profile that was associated with the defendant.

MCL 768.27b

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bill is not expected to have a significant impact on State or local courts. By allowing a court to admit evidence of a defendant's prior sexual assault, the bill has the potential to increase criminal court filings and convictions. The increase in filings and convictions cannot be determined, and could be offset by court-ordered fines and costs.

To the extent that the changes led to more misdemeanor and felony convictions, there would be increased costs for community supervision, jails, and correctional facilities. The average cost to State government for felony probation supervision is approximately \$3,024 per probationer per year. For any increase in prison intakes, in the short term, the marginal cost to State government is approximately \$3,764 per prisoner per year. Any increase in penal fine revenue increases revenue to public libraries.

Date Completed: 6-7-18

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