



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bills 108 and 109 (as introduced 2-13-19)
Sponsor: Senator Peter J. Lucido
Committee: Judiciary and Public Safety

Date Completed: 8-27-19

CONTENT

Senate Bill 108 would amend the Michigan Penal Code to prohibit a person from assaulting or assaulting and battering a vulnerable adult, and prescribe misdemeanor and felony penalties for the proposed violations.

Senate Bill 109 would amend the sentencing guidelines within the Code of Criminal Procedure to include the felony proposed by Senate Bill 108 as a Class E felony against a person, with a statutory maximum sentence of five years' imprisonment.

Each bill would take effect 90 days after its enactment. Senate Bills 109 is tie-barred to Senate Bill 108.

Senate Bill 108 is explained in greater detail below.

Under the bill, a person who assaulted or assaulted and battered a vulnerable adult and who knew the individual was a vulnerable adult would be guilty of a misdemeanor punishable by imprisonment for up to one year or a maximum fine of \$1,000, or both. A person who committed the proposed offense and who had one or more previous convictions for assaulting or assaulting and battering a vulnerable adult would be guilty of a felony punishable by up to five years' imprisonment or a maximum fine or an ordinance of a political subdivision of the State or of another state substantially corresponding to the proposed offense of \$5,000, or both.

"Vulnerable adult" would mean that term as defined in Section 145m: a) an individual age 18 or over who, because of age, development ability, mental illness, or physical disability requires supervision or personal care or lack the personal and social skills required to live independently; b) an adult as defined in Section 3(1)(b) of the Adult Foster Care Facility Licensing Act (a person 18 years of age or older or a person who is placed in an adult foster care family home or an adult foster care small group home); or c) an adult as defined in Section 11(b) of the Social Welfare Act (a vulnerable person not less than 18 years of age who is suspected of being or believed to be abused, neglected, or exploited).

The bill would not apply to an individual using necessary reasonable physical force in compliance with Section 1312 of the Revised School Code. (That section prohibits a person employed by or engaged as a volunteer or contractor by a local or intermediate school board or public school academy from inflicting corporal punishment upon any pupil under any circumstances, but authorizes an employee, volunteer, or contractor to use reasonable physical force upon a pupil as necessary to maintain order and control in a school or school-related setting for the purpose of providing an environment conducive to safety and learning.)

The bill also would not apply if the violation were committed by an individual with a developmental disability against another individual with a developmental disability. "Developmental disability" would mean that term as defined in Section 520a: an impairment of general intellectual functioning or adaptive behavior that meets all of the following:

- It originated before the person was 18 years of age.
- It has continued since its origination or can be expected to continue indefinitely.
- It constitutes a substantial burden to the impaired person's ability to perform in society.
- It is attributable to intellectual disability, cerebral palsy, epilepsy, autism, or any other condition of a person that produces a similar impairment or requires treatment and services similar to those required for a person described above.)

Proposed MCL 750.81f (S.B. 108)
MCL 777.16d (S.B. 109)

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

Senate Bill 108

The bill would have a negative fiscal impact on the State and local government. New misdemeanor and felony arrests and convictions under the bill could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. However, it is unknown how many people would be prosecuted under the bill's provisions. The average cost to State government for felony probation supervision is approximately \$3,024 per probationer per year. For any increase in prison intakes (for felony convictions), in the short term, the marginal cost to State government is approximately \$5,315 per prisoner per year. Any additional revenue from imposed fines would go to local libraries.

Senate Bill 109

The bill would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge*, in which the Court ruled that the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

Fiscal Analyst: Joe Carrasco

SAS\S1920\s108sa

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.