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Senate Bill 257 (as introduced 4-10-19)  
Sponsor: Senator Stephanie Chang  
Committee: Judiciary and Public Safety

Date Completed: 5-8-19

### **CONTENT**

**The bill would amend Chapter IX (Judgment and Sentence) of the Code of Criminal Procedure to change, for the purposes of deferred domestic violence proceedings, Michigan Compiled Laws references pertaining to certain assault and battery offenses.**

Under Section 4a of Chapter IX of the Code, a court may defer the proceedings against a first-time domestic assault offender, and dismiss the charges after he or she serves a probationary period. An individual may receive only one discharge and dismissal under Section 4a. The discharge and dismissal must be without adjudication of guilt and is not a conviction for purposes of Section 4a or for disqualification or disabilities imposed by law upon conviction of a crime, but it is a prior conviction in a prosecution under Sections 81(3) and (4) and 81a(3) of the Michigan Penal Code.

Instead of Section 81(3) and (4) of the Penal Code, the bill would refer to Sections 81(4) and (5), respectively.

The bill would take effect 90 days after its enactment.

MCL 769.4a

### **BACKGROUND**

Under Section 81a(3) of the Penal Code, except as otherwise provided, an individual who assaults 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 the same household without a weapon and inflicts serious or aggravated injury on that individual without intending to commit murder or to inflict great bodily harm less than murder is guilty of a misdemeanor punishable by up to one years' imprisonment or a maximum fine of \$1,000.00, or both.

An individual who commits an assault and battery against an individual specified above, and who has one or more previous convictions for assault or assaulting and battering that individual, is guilty of a felony punishable by up to five years' imprisonment or a maximum fine of \$5,000, or both.

Formerly, Section 81(3) specified that a person who committed an assault or assault and battery against his or her spouse or former spouse, an individual with whom he or she currently or previously had a dating relationship, an individual with whom he or she had a

child in common, or a resident or former resident of his or her household, and who had previously been convicted of assaulting and battering an individual described above was guilty of a misdemeanor punishable by up to one year's imprisonment or a maximum fine of \$1,000, or both.

Section 81(4) specified that a person who committed an assault or assault and battery against an individual described above, and who had two or more previous convictions for assaulting or assaulting and battering that individual, was guilty of a felony punishable by up to five years' imprisonment or a maximum fine of \$5,000, or both.

Public Act 87 of 2016 retained the provisions specified in Sections 81(3) and 81(4), but renumbered them as Sections 81(4) and 81(5), respectively.

Legislative Analyst: Stephen Jackson

### **FISCAL IMPACT**

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Joe Carrasco  
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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.