



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bills 67 and 68 (as reported without amendment)
Sponsor: Senator Dan Lauwers (S.B. 67)
Senator Erika Geiss (S.B. 68)
Committee: Civil Rights, Judiciary, and Public Safety

CONTENT

Senate Bill 67 would amend the Michigan Penal Code to delete a provision that prohibits a person from engaging in sexual intercourse with a woman under the pretext of medical treatment, and to do the following:

- Prohibit a person undertaking medical treatment from misrepresenting to a patient that sexual contact or sexual penetration between the person and the patient would be necessary or beneficial to the patient's health and inducing the patient to engage in sexual contact or sexual penetration with the person by means of the misrepresentation.
- Prescribe felony penalties for a violation of the proposed prohibition.
- Allow a court to order a term of imprisonment imposed for a violation to be served consecutively to a term imposed for another crime.

Senate Bill 68 would amend the sentencing guidelines in the Code of Criminal Procedure to include the felonies proposed by Senate Bill 67 and to delete the guidelines for the offense that bill would eliminate.

Senate Bill 68 is tie-barred to Senate Bill 67. Each bill would take effect 90 days after its enactment.

MCL 750.90 (S.B. 67)
777.16d (S.B. 68)

BRIEF RATIONALE

According to testimony, sexual contact and penetration under the pretext of medical treatment is not uncommon. A well-known example is that of Larry Nassar, a former doctor for Michigan State University's gymnastics team who was convicted of several counts of first-degree criminal sexual conduct that he perpetrated during his work as the team doctor. Some people believe that these examples require a specific prohibition against sexual contact and penetration under the pretext of medical treatment.

PREVIOUS LEGISLATION

(Please note: The information in this summary provides a cursory overview of previous legislation and its progress. It does not provide a comprehensive account of all previous legislative efforts on the relevant subject matter.)

Senate Bills 67 and 68 are reintroductions of Senate Bills 224 and 225, respectively, from the 2021-2022 Legislative Session. Senate Bills 224 and 225 passed the Senate but received no further action in the House.

Legislative Analyst: Tyler P. VanHuyse

FISCAL IMPACT

Senate Bill 67

The bill would have a negative fiscal impact on the State and local government. New felony arrests and convictions under the proposed 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 bills' provisions. The average cost to State government for felony probation supervision is approximately \$4,200 per probationer per year. For any increase in prison intakes the average annual cost of housing a prisoner in a State correctional facility is an estimated \$45,700. Per diem rates range from a low of \$98 to a high of \$192 per day, depending on the security level of the facility. Any associated increase in fine revenue would increase funding to public libraries.

Senate Bill 68

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.

Date Completed: 4-24-23

Fiscal Analyst: Joe Carrasco, Jr.

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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.