

Legislative Analysis



CODE OF CRIMINAL PROCEDURE REVISIONS

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Senate Bill 170 as passed by the Senate

Sponsor: Sen. Bruce Patterson

House Committee: Judiciary

Senate Committee: Judiciary

Complete to 3-21-05

A SUMMARY OF SENATE BILL 170 AS PASSED BY THE SENATE 2-15-05

The bill would amend the Code of Criminal Procedure to include an individual with whom a victim currently has or previously had a "dating relationship" in provisions relating to arrests in domestic violence situations. The bill also would revise certain sentencing guidelines provisions.

Dating relationship. The code requires a magistrate to issue an arrest warrant upon presentation of a proper complaint alleging the commission of an offense and a finding of reasonable cause to believe that the accused individual committed that offense. The magistrate may not refuse to accept a complaint alleging assault or aggravated assault by the victim's spouse or former spouse, an individual with whom the victim has had a child in common, or an individual residing or having resided in the same household as the victim, on grounds that the complaint is signed upon information and belief by an individual other than the victim. Senate Bill 170 would include an individual with whom the victim has or has had a dating relationship in that provision.

The code requires each police agency in Michigan to develop, adopt, and implement written policies for police officers responding to domestic violence calls. The policies must address certain procedures for making a criminal arrest, and must emphasize that when an officer has probable cause to believe spouses, former spouses, individuals who have had a child in common, or other individuals who currently live or formerly lived together are committing or have committed crimes against each other, the officer should consider certain factors when determining whether to make an arrest of one or both individuals. The bill would include individuals who have or have had a dating relationship in that provision.

"Dating relationship" would mean frequent, intimate associations primarily characterized by the expectation of affectional involvement. The term would not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.

Sentencing guidelines. Currently, the sentencing guidelines list a four-year statutory maximum penalty for the intentional false report of child abuse. The bill would change that to a variable statutory maximum penalty to reflect the range of imprisonment allowed under the corresponding provision in the Child Protection Law.

The sentencing guidelines currently refer to a felony of wearing body armor during the commission of violent crime. The bill would refer to "certain crimes" rather than "violent crime".

The bill also would change the sentencing guidelines citations to sections of the Michigan Compiled Laws governing damaging or destroying research property. Presently, the guidelines cite MCL 750.385(2)(c) through 750.385(2)(g). The bill instead would cite MCL 750.395(2)(c) through 750.395(2)(g).

MCL 764.1a et al.

FISCAL IMPACT:

The bill apparently would have no significant impact on the state or local units of government.

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