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BILL ANALYSIS

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Senate Bill 170 (as enrolled)  
Sponsor: Senator Bruce Patterson  
Committee: Judiciary

Date Completed: 2-11-05

### **RATIONALE**

The Code of Criminal Procedure identifies procedures that law enforcement and court officials must follow in the course of an investigation and prosecution. In two instances in which the Code addresses domestic violence issues, the provisions are not consistent with domestic violence proscriptions in the Michigan Penal Code. The Penal Code includes a dating relationship between an offender and a victim in domestic violence situations, but the Code of Criminal Procedure does not refer to dating relationships. It has been suggested that the Code of Criminal Procedure also should include dating relationships in its domestic violence provisions.

In addition, the Code of Criminal Procedure contains sentencing guidelines designations for and descriptions of hundreds of criminal violations. Language in the sentencing guidelines is inconsistent with the maximum penalty, description, or compiled law citations for certain crimes. It has been suggested that the guidelines be brought into conformity with the statutory provisions for the underlying violations.

### **CONTENT**

**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. The bill 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 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.

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.

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.

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

By including dating relationships in the Code of Criminal Procedure's provisions pertaining to arrest warrants in domestic violence cases and to police agencies' policies for responding to domestic violence calls, the bill would make these provisions consistent with prohibitions and penalties in the Michigan Penal Code, which already include dating relationships.

The bill also would bring the sentencing guidelines relating to the intentional false report of child abuse, wearing body armor during certain crimes, and damaging or destroying research property, into conformity with the penalties, descriptions, and MCL citations for those crimes.

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

Since the bill would bring the Code's section regarding domestic violence arrests in line with recent statutory changes made concerning domestic violence offenses, the bill would have no likely fiscal impact on State or local government.

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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.