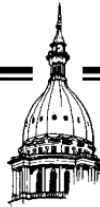




Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS



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

Senate Bills 134 and 135 (as introduced 1-31-13)
Sponsor: Senator Rick Jones
Committee: Judiciary

Date Completed: 2-11-13

CONTENT

Senate Bill 135 would amend the Michigan Penal Code to eliminate the maximum age of a student in third- and fourth-degree criminal sexual conduct (CSC) violations involving a student and a school official, employee, contractor, or volunteer or a government employee providing service to a school, district, or intermediate school district (ISD), and to delete an exception to those prohibitions for a situation in which the student is emancipated.

Senate Bill 134 would amend Public Act 189 of 1966, which prescribes search warrant procedures, to remove reference to a fourth-degree CSC violation involving a special education student, from a provision requiring the court to authorize the search and seizure of hair, tissue, blood, or other fluids.

Both bills would take effect 90 days after enactment. Senate Bill 134 is tie-barred to Senate Bill 135.

Senate Bill 135

Under the Penal Code, a person is guilty of third-degree CSC if he or she engages in sexual penetration with another person, or is guilty of fourth-degree CSC if he or she engages in sexual contact with another person, and any of certain sets of circumstances exists. Under one set of circumstances, the other person is at least 16 years of age, but less than 18, and is a student at a public school or nonpublic school, and either of the following applies:

- The actor is a teacher, substitute teacher, or administrator of the school, district, or ISD, unless the other person is emancipated or the two people are lawfully married to each other at the time of the alleged violation.
- The actor is an employee or contractual service provider of the school, district, or ISD in which the other person is enrolled, is a nonstudent volunteer, or is a government employee assigned to provide any service to the school, district, or ISD and uses his or her status to gain access to or establish a relationship with the other person.

The bill would delete the qualifier that the other person be less than 18, and the exception for an emancipated minor.

The Code also contains similar provisions under which a violation is third- or fourth-degree CSC when the other person is at least 16 but less than 26 and is receiving special education services. The bill would delete those provisions.

Senate Bill 134

Under Public Act 189 of 1966, if the court has probable cause to believe that an individual committed a CSC violation listed in the Act, the court must, upon proper petition for a search warrant, authorize the search and seizure of hair or tissue, or blood or other fluid samples from all of the following:

- Any individual whom the court has probable cause to believe committed the violation.
- A child, if the court has probable cause to believe that the violation resulted in the birth of a child.
- The remains of an unborn child, if the court has probable cause to believe that the violation resulted in a terminated pregnancy.

The bill would delete from that requirement reference to a fourth-degree CSC violation in which the other person is at least 16 but less than 26 and is receiving special education services and the actor is either of the following:

- A teacher, substitute teacher, administrator, employee, or contractual service provider of the school, district, or ISD, and is not lawfully married to the other person.
- A nonstudent volunteer or a government employee assigned to provide any service to the school, district, or ISD who uses his or her status to gain access to or establish a relationship with the other person.

(As noted above, Senate Bill 135 would delete that fourth-degree CSC violation from the Penal Code.)

MCL 780.652a (S.B. 134)
750.520d & 750.520e (S.B. 135)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have an indeterminate impact on State and local government. There are no data to indicate how many new convictions would occur under the expanded definition of criminal sexual conduct contained in Senate Bill 135. Additional charges and convictions would lead to an increase in State and local incarceration and community supervision costs. Additional fine revenue would benefit public libraries.

Fiscal Analyst: Dan O'Connor

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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.