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BILL ANALYSIS



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Senate Bills 1080 and 1081 (as introduced 9-20-16)
Sponsor: Senator Margaret E. O'Brien
Committee: Judiciary

Date Completed: 10-28-16

CONTENT

Senate Bill 1080 would amend the Michigan Penal Code to prescribe a felony penalty for a detainee or prisoner who threw or attempted to throw bodily material at any individual performing his or her duties as a peace officer, corrections officer, parole officer, or probation officer, or otherwise caused or attempted to cause those officers to come into contact with bodily material.

Senate Bill 1081 would amend the Code of Criminal Procedure to include the felony proposed by Senate Bill 1080 in the sentencing guidelines.

Senate Bill 1081 is tie-barred to Senate Bill 1080, and would take effect 90 days after it was enacted.

Senate Bill 1080

Under the bill, a detainee or prisoner in a holding cell, holding center, lockup, jail, or State correctional facility who threw or attempted to throw any bodily material on any individual performing his or her duties as a peace officer, corrections officer, parole officer, or probation officer in that holding cell, holding center, lockup, jail, or State correctional facility, or who otherwise caused or attempted to cause any individual performing his or her duties as a peace officer, corrections officer, parole officer, or probation officer in that holding cell, holding center, lockup, jail, or State correctional facility to come into contact with any bodily material, would be guilty of a felony punishable by imprisonment for up to four years or a maximum fine of \$2,000, or both.

The bill would not prohibit the person from being charged with, convicted of, and sentenced for any other violation of law instead of being charged with, convicted of, and sentenced for a violation of the bill.

The bill would define "bodily material" as blood, urine, saliva, or feces.

"Holding cell", "holding center", "lockup", "jail", and "State correctional facility" would mean those terms as defined in the Corrections Code.

(Under the Code, those terms are defined as follows:

- "Holding cell" means a cell or room in a facility of a local unit of government that is used for the detention of one or more people awaiting processing, booking, court appearances, transportation to a jail or lockup, or discharge for not more than 12 hours.

- "Holding center" means a facility that is operated by a local unit of government for the detention of people awaiting processing, booking, court appearances, transportation to a jail or lockup, or discharge, for not more than 24 hours.
- "Lockup" means a facility that is operated by a local unit of government for the detention of people awaiting processing, booking, court appearances, or transportation to a jail, for not more than 72 hours.
- "Jail" means a facility that is operated by a local unit of government for the detention of people charged with, or convicted of, criminal offenses or ordinance violations, or people found guilty of civil or criminal contempt, for not more than one year.
- "State correctional facility" means a facility or institution maintained and operated by the Department of Corrections.)

Senate Bill 1081

Under the bill, the offense proposed by Senate Bill 1080 would be designated in the sentencing guidelines as a Class F felony against a person, with a statutory maximum sentence of four years' imprisonment.

Proposed MCL 750.411x (S.B. 1080)
MCL 777.16t (S.B. 1081)

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

Senate Bill 1080

The bill could have a negative fiscal impact on the State and local government. More felony prosecutions and convictions could increase resource demands on local court systems, community supervision, and jails and correctional facilities. For any increase in prison intakes, in the short term, the marginal cost to State government would be approximately \$3,764 per prisoner per year. In the long term, if the increased intake of prisoners increased the total prisoner population enough to require the Department of Corrections to open a housing unit or an entire facility, the marginal cost to State government would be approximately \$34,550 per prisoner per year. Any associated increase in fine revenue would be dedicated to public libraries.

Senate Bill 1081

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 struck down portions of the sentencing guidelines law). According to one interpretation of that decision, 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 would depend on judicial decisions.

Fiscal Analyst: Ryan Bergan

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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.