
Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 113 (Substitute S-2 as reported by the Committee of the Whole)
Sponsor: Senator Michael J. Bouchard
Committee: Families, Mental Health and Human Services

CONTENT

The bill would amend the Michigan Penal Code to provide penalties for a person's failure to prevent or stop harm to or "criminal sexual activity" against a child by another individual, or to report the incident, when the person was responsible for the child's welfare and had actual knowledge that the other person engaged or intended to engage in criminal sexual activity against the child or to cause harm to the child. A violation would be punishable by up to the maximum penalty provided for the other person's crime, regardless of whether the other person was convicted of the crime, except that the maximum term of imprisonment could not exceed 15 years. It would be a defense to a prosecution under the bill that the person responsible for the child's welfare had a reasonable and honest belief that, based on the existence of domestic violence, preventing or reporting child abuse would result in serious physical harm to the child. "Criminal sexual activity" would mean a violation of the Penal Code's provisions prohibiting involvement in child sexually abusive activity and possession of child sexually abuse material; first-, second-, third-, or fourth-degree criminal sexual conduct (CSC); or assault with intent to commit CSC.

The bill also would add "serious mental harm" to the felony of second-degree child abuse; revise the definitions of "serious physical harm" and "serious mental harm" in the Code's child abuse provisions; and specify that the criminal child abuse provisions would apply to a person "responsible for the child's welfare".

In addition, the bill specifies that failing to provide medical treatment, in accordance with legitimate religious beliefs, would not be a violation of the Code's criminal child abuse provisions.

MCL 750.136b

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State government. To the extent that individuals who are currently not being convicted of failing to prevent or stop harm to or criminal sexual activity against a child and under the provisions of the bill would be convicted of those acts, costs for arresting, prosecuting, and sanctioning violators would increase. There are no data currently available that might indicate the potential number of annual convictions, and the subsequent sanction (prison, jail, probation or some combination) for each conviction that could result because of the bill's new provisions.

Date Completed: 6-11-97

Fiscal Analyst: M. Hansen