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SENTENCING GUIDELINES AMENDMENT

House Bill 5291

Sponsor: Rep. Barb Vander Veen

Committee: Criminal Justice

Complete to 4-8-02

A SUMMARY OF HOUSE BILL 5291 AS INTRODUCED 10-18-01

The Code of Criminal Procedure utilizes a classification and grid system to guide judges when determining an appropriate sentence for people convicted of violating the law. The code currently identifies 19 offense variables and assigns various points to be scored depending on whether and how the offense variable applies to the particular violation. (Offense variable 20 – terrorism - was added by enrolled Senate Bill 946, which became Public Act 137 of 2002. Public Act 137 will take effect April 22, 2002.) House Bill 5291 would revise offense variable 5 and add a definition of “violent crime” to the code.

The bill would amend the code to add to the scoring of offense variable 5 (psychological injury to a member of a victim’s family) whether a child saw or heard or personally and directly witnessed a violent crime (10 points) and also whether a child observed the physiological or physical results or was merely present during the commission of a violent crime (5 points). Currently under the code, offense variable 5 must be scored for all crimes against a person and for the crimes of homicide, attempted homicide, and assault with intent to commit murder. (Public Act 137 also adds conspiracy or solicitation to commit a homicide to the scoring of offense variable 5.)

Further, the bill would define “violent crime” as meaning (except as used in Section 16m of the code) the commission of a crime in which physical force or violence was used or threatened. [Note: Section 16m specifies that wearing body armor during the commission of a violent crime – in violation of MCL 750.227f (Section 227f of the Michigan Penal Code) – is a Class F felony against the public safety with a four-year maximum term of imprisonment. Section 227f of the penal code specifies that an individual who commits or attempts to commit a crime that involves a violent act or a threat of a violent act against another person while wearing body armor is guilty of a felony.]

MCL 777.1, 777.22, and 777.35

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