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SFA**BILL ANALYSIS**

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House Bill 4765 (Substitute H-2 as passed by the House)
Sponsor: Representative Judith Scranton
House Committee: Criminal Justice
Senate Committee: Judiciary

Date Completed: 12-3-02

CONTENT

The bill would amend Chapter VIII of the Code of Criminal Procedure ("Trials") to specify that evidence of a statement by a declarant would be admissible and not prohibited as hearsay, if all of the following applied:

- The statement was offered in a criminal proceeding for domestic assault or aggravated domestic assault, or a proceeding regarding the issuance or violation of a personal protection order, and the declarant was the defendant's spouse or former spouse, an individual with whom the defendant had a child in common, an individual with whom the defendant currently or previously had a dating relationship, or a resident or former resident of the same household as the defendant.
- The statement purported to narrate, describe, or explain the infliction of or threat to inflict physical injury upon the declarant.
- The statement was made at or near the time of the threat or the infliction of physical injury. (Evidence of a statement made more than five years before the present action or proceeding was filed, however, would be inadmissible.)
- The statement was made under circumstances that would indicate the statement's trustworthiness.
- The statement was made in writing, was electronically recorded, or was made to a law enforcement official.

For the purpose of admissibility of a declarant's statement under the bill, circumstances relevant to the issue of trustworthiness would include at least all of the following:

- Whether the statement was made in contemplation of pending or anticipated litigation in which the declarant was interested.
- Whether the declarant had a bias or motive for fabricating the statement, and the extent of any bias or motive.
- Whether the statement was corroborated by evidence other than statements that were admissible only under the bill.

A statement would be admissible under the bill only if its proponent made known to the adverse party the intention to offer the statement, and its particulars, sufficiently in advance of the proceeding to give the adverse party a fair opportunity to prepare to meet the statement.

Proposed MCL 768.27a

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. To the extent that allowing statements of declarants to be admitted into evidence would increase the number of convictions, the bill would increase State and local criminal justice costs.

Fiscal Analyst: Bethany Wicksall