

SFA

BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

(517) 373-5383

RECEIVED**OCT 08 1990**

Mich. State Law Library

Senate Bill 919 (as passed by the Senate)
Sponsor: Senator Jack Welborn
Committee: Judiciary

Date Completed: 6-7-90

RATIONALE

The Michigan Penal Code provides that, if a murder occurs during the course of the commission or attempted commission of certain other criminal offenses, then it is murder in the first degree, which requires a sentence of imprisonment for life without parole. This so-called "felony murder" provision applies to murders that result from arson, first- or third-degree criminal sexual conduct, breaking and entering, robbery, extortion, larceny, or kidnapping, or an attempt to commit any of those crimes. Some believe that a murder resulting from the commission or attempted commission of first-degree child abuse also should constitute first-degree murder.

CONTENT

The bill would amend the Michigan Penal Code to specify that a murder committed in the course of first-degree child abuse, or attempted first-degree child abuse, would constitute murder of the first degree. (First-degree child abuse is the knowing or intentional causing of "serious physical or serious mental harm to a child" and is a felony, punishable by up to 15 years' imprisonment.)

MCL 750.316

FISCAL IMPACT

The bill would have no fiscal impact on State or local government in FY 1989-90 or FY 1990-91. The Department of Corrections reports that at this time detailed data regarding crime victims, and in particular the number of children murdered during the commission of first-degree child abuse, are not available.

Currently, if a child is murdered during the commission of first-degree child abuse, the prosecutor charges the offender based on the facts of the case, and the offender could be charged, for example, with first-degree murder, second-degree murder, or manslaughter.

The State would not incur increased expenditures until such time as the prisoner's sentence under current sentencing practices was about to end and the first-degree murder provisions took effect.

ARGUMENTS**Supporting Argument**

Since first-degree child abuse is a premeditated and heinous crime (i.e., the knowing or intentional infliction of serious physical or serious mental harm), a death resulting from that offense should be treated as murder in the first degree and the violator should be imprisoned for life.

Legislative Analyst: P. Affholter
Fiscal Analyst: B. Burghardt

A8990/S919A

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.

S.B. 919 (6-7-90)