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SFA**BILL ANALYSIS**

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House Bill 4881 (as passed by the House)
Sponsor: Representative Jennifer Faunce
House Committee: Criminal Law and Corrections
Senate Committee: Judiciary

Date Completed: 5-25-00

CONTENT

The bill would amend the Michigan Penal Code to reclassify as second-degree criminal sexual conduct (CSC) "sexual contact" with another person under any of the following circumstances:

- The victim is under the jurisdiction of the Department of Corrections (DOC) and the offender is an employee or contractual employee of, or a volunteer with, the DOC and knows that the other person is under the DOC's jurisdiction.
- The victim is a prisoner or probationer under the jurisdiction of a county for purposes of imprisonment or a work program, or other probationary program, and the actor is an employee or a contractual employee of, or a volunteer with, the county and knows that the other person is under the county's jurisdiction.
- The offender knows or has reason to know that a court has detained the victim in a facility while the victim is awaiting a trial or hearing, or committed the victim to a facility as a result of a juvenile adjudication, and the offender is an employee or contractual employee of, or a volunteer with, the facility in which the victim is detained or to which the victim is committed.

Currently, that offense constitutes fourth-degree CSC. Second-degree CSC is a felony, punishable by up to 15 years' imprisonment. Fourth-degree CSC is a misdemeanor, punishable by up to two years' imprisonment, a maximum fine of \$500, or both.

"Sexual contact" includes the intentional touching of the victim's or actor's "intimate parts" or the intentional touching of the clothing covering the immediate area of the victim's or actor's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification. "Intimate parts" includes a person's primary genital area, groin, inner thigh, buttock, or breast.

MCL 750.520c & 750.520e

Legislative Analyst: P. Affholter

FISCAL IMPACT

House Bill 4881 would have an indeterminate fiscal impact on State and local government.

In 1998, there were 533 people convicted of fourth-degree criminal sexual conduct and 33 people convicted of attempted fourth-degree CSC. However, there are no data available to indicate how many of these offenders were employees, contract employees, or volunteers of the Department of Corrections, a court, or a detention facility, and whose victim was under the jurisdiction of the DOC, a county, or a court. Under these circumstances, offenders would be convicted of second-degree, instead of fourth-degree, CSC. Of those convicted in 1998 of fourth-degree criminal sexual conduct, 93 or 16% were sentenced to State prison. Conversely, 696 people were convicted of second-degree CSC or the attempt, and 386 or 55% of them were sentenced to prison. To the extent that under this bill certain offenders would be more likely to receive a prison sentence, costs for the State would increase. To the extent that the number of offenders subject to these provisions is unknown and the current sentence received is unknown, the increased costed

is not known.

Fourth-degree criminal sexual conduct is a Class G crime with a minimum sentencing guideline range of 0-3 months to 7-23 months and second-degree CSC is a Class C crime with a minimum sentencing guideline range of 0-11 months to 62-114 months. Assuming that two offenders a year would be charged with the more serious crime, that they would be subject to the highest minimum sentence, and that they would serve only the minimum sentence, costs would increase from \$84,300 to \$418,000.

Fiscal Analyst: K. Firestone

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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.