

Senate Fiscal Agency  
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**SFA****BILL ANALYSIS**

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Senate Bill 180 (Substitute S-1 as passed by the Senate)  
Sponsor: Senator Bill Schuette  
Committee: Judiciary

Date Completed: 2-16-01

### **RATIONALE**

The Michigan Penal Code includes graduated penalties for various prostitution-related offenses that apply more severe punishment for repeat violations. The maximum penalties range from 90 days' imprisonment and a \$100 fine for a first offense, to two years' imprisonment for a third or subsequent offense. Reportedly, some cities have local ordinances prohibiting the same type of conduct as the Penal Code's prostitution offenses, but the Penal Code does not include local ordinance violations in its provision for enhanced penalties for subsequent offenses. As a result, if someone is convicted under a local ordinance, and subsequently is convicted for another offense under the Penal Code, the local conviction is not counted for the purpose of sentencing under the Code. Some people believe that the Code's graduated penalty provision should include local ordinance violations as prior convictions.

### **CONTENT**

**The bill would amend the Michigan Penal Code to include local prostitution and solicitation violations as prior convictions, for the purpose of enhanced penalties for repeat offenses under the Code.** The bill would take effect on June 1, 2001.

Soliciting and accosting to commit prostitution or an immoral act, admitting a person to a place for purposes of prostitution, engaging services for purposes of prostitution, lewdness, or assignation, and aiding and abetting another to solicit for prostitution or to admit a person to a place for purposes of prostitution are misdemeanors punishable by up to 90 days' imprisonment, a maximum fine of \$100, or both. A second offense is a misdemeanor punishable by up to one year's imprisonment and/or a maximum fine of \$500, and a third or subsequent offense is a felony punishable by up to two years' imprisonment. Under the bill, the current penalty for a second offense would apply if an offender had a "prior conviction", and the current penalty for a third or subsequent offense would apply

if the offender had two or more prior convictions. "Prior conviction" would mean a violation of any of the offenses listed above or of a substantially corresponding local ordinance. A prior conviction would have to be established, at sentencing, by an abstract of conviction or an admission by the defendant.

MCL 750.451

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

#### **Supporting Argument**

Apparently, some repeat prostitution offenders are escaping the Penal Code's enhanced penalties for subsequent violations because they have previously been charged with a local ordinance violation rather than a Penal Code offense. Although an offender might be subject to enhanced penalties under a city's ordinance when he or she has multiple violations in the same city, those convictions do not count as prior offenses when the person is convicted of city ordinance prostitution violations in different locales or under the Penal Code. Since the bill would include violations of substantially corresponding local ordinances as prior convictions under the Penal Code, prosecutors could seek the enhanced penalties for repeat offenders that are allowed under the Code.

#### **Opposing Argument**

The bill could result in more prostitution-related violators' serving greater jail or prison terms. The State's jails and prisons are crowded enough without filling them up with prostitutes, those who hire them, and those who aid and abet their activities.

**Response:** The greater likelihood of being subject to enhanced penalties, including a felony charge for a third or subsequent offense, could serve as a deterrent to committing the prostitution offenses.

In addition, it is probably more desirable to have prostitutes in jail and prison than on the streets.

Legislative Analyst: P. Affholter

### **FISCAL IMPACT**

The bill would have an indeterminate fiscal impact on State and local government.

To the extent that there are no statewide data to indicate how many offenders could be convicted of soliciting, engaging services, or aiding and abetting in prostitution, the costs that would be incurred by local government for the misdemeanor crimes are indeterminate. A third or subsequent offense would result in a felony conviction for which the State or local units of government would incur the cost of incarceration.

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.