

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 1356 (Substitute S-1 as reported by the Committee of the Whole)
Sponsor: Senator Bev Hammerstrom
Committee: Judiciary

CONTENT

The bill would amend the Revised Judicature Act to revise the procedures for securing and using "videotape statements" of witnesses in some cases. The bill would refer, instead, to "videorecorded statements"; require that a videorecorded statement conform to the protocol implemented under the Child Protection Law (CPL); provide that a videorecorded statement would be subject to an order to protect the witness's privacy and would not be subject to release under any other statute or to disclosure under the Michigan Court Rules governing discovery; and provide that intentionally releasing a videorecorded statement in violation of the Act would be punishable by up to 93 days' imprisonment and/or a maximum fine of \$500. The bill is tie-barred to Senate Bill 1447, which would similarly revise the juvenile code.

The RJA allows a videotape statement of a witness to be taken before the defendant's preliminary examination. "Witness" means a person who is under 16 or who is 16 or older with a developmental disability, and who is an alleged victim of first-, second-, third-, or fourth-degree child abuse; involvement in child sexually abusive activity or material; first-, second-, third-, or fourth-degree criminal sexual conduct (CSC); or assault with intent to commit CSC. Under the bill, "videorecorded statement", would mean a witness's statement taken by a custodian of the videorecorded statement as provided in the Act, but would not include a videorecorded deposition taken instead of live testimony. "Custodian of the videorecorded statement" would mean the Family Independence Agency (FIA), investigating law enforcement agency, prosecuting attorney, Department of Attorney General, or another person designated under the county protocols established under the CPL.

A custodian of the videorecorded statement could release it to a law enforcement agency, an agency authorized to prosecute the criminal case, or an entity that was part of the county CPL protocols. If authorized by the prosecuting attorney, it could be used to train the county's custodians of the videorecorded statement.

The defendant and his or her attorney would have the right to view and hear a videorecorded statement before the preliminary examination (instead of at least 48 hours before, as currently provided). Upon request, the prosecuting attorney would have to provide reasonable access to the statement before the pretrial or trial, but the defense could not copy the statement.

MCL 600.2163a

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the State due to increased administrative costs for any additional training necessary for the custodians of the videorecordings. There are no data to indicate how many offenders would be convicted of intentionally releasing a videorecorded statement. Local units of government would incur the costs, which vary by county from \$27 to \$65 per day. The bill would no fiscal impact on the courts or on State or local law enforcement agencies.

Date Completed: 9-27-02

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