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House Bill 4597 (Substitute S-1 as reported) House Bill 4598 (Substitute S-1 as reported) House Bill 4599 (Substitute S-1 as reported)

Sponsor: Representative Leslie Mortimer (H.B. 4597)

Representative Rick Jones (H.B. 4598)

Representative Kevin Elsenheimer (H.B. 4599)

House Committee: Judiciary Senate Committee: Judiciary

CONTENT

House Bill 4597 (S-1) would amend the Michigan Penal Code to establish an enhanced criminal penalty for indecent exposure if the violator fondled himself or herself while committing the violation (aggravated indecent exposure).

Under the Michigan Penal Code, a person who knowingly makes any open or indecent exposure of his or her person or of the person of another is guilty of a misdemeanor punishable by up to one year's imprisonment or a maximum fine of \$1,000, or both. If, at the time of a violation, the offender was a sexually delinquent person (as defined in the Code), the violation may be punishable by an indeterminate term of imprisonment of one day to life.

Under the bill, in addition to the penalties described above, if a person fondled his or her genitals, pubic area, or buttocks, or if a female fondled her breasts, while committing indecent exposure, the violation would be a misdemeanor punishable by up to two years' imprisonment, a maximum fine of \$2,000, or both.

<u>House Bill 4598 (S-1)</u> would amend the Sex Offenders Registration Act (SORA) to include aggravated indecent exposure in SORA's definition of "listed offense" if the offender had previously been convicted of indecent exposure or aggravated indecent exposure. The Act requires a person convicted of a listed offense to register as a sex offender.

<u>House Bill 4599 (S-1)</u> would amend the Code of Criminal Procedure to include aggravated indecent exposure in the sentencing guidelines. Under the bill, the offense would be a Class G felony against a person, with a statutory maximum sentence of two years. (Although the violation would be classified as a misdemeanor in House Bill 4597 (S-1), under the Code of Criminal Procedure, a violation punishable by imprisonment for more than one year is considered a felony.)

House Bills 4598 (S-1) and 4599 (S-1) are tie-barred to House Bill 4597. All of the bills would take effect on February 1, 2006.

MCL 750.335a (H.B. 4597) 28.722 (H.B. 4598) 777.16q (H.B. 4599)

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of aggravated indecent exposure. An offender convicted of the Class G offense would receive a sentencing guidelines minimum sentence range of 0-3 months to 7-23 months. Local governments would incur the costs of incarceration in local facilities, which vary by county. If a misdemeanant's sentence were more than 12 months, the State would incur the cost of incarceration in a State facility at an average annual cost of \$30,000. Public libraries would benefit from any additional penal fine revenue raised.

Date Completed: 11-14-05 Fiscal Analyst: Bruce Baker

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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.