

Legislative Analysis



CSC: SCHOOL EMPLOYEES AND VOLUNTEERS

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Senate Bill 386

Sponsor: Sen. Bruce Patterson

House Committee: Judiciary

Senate Committee: Judiciary

Complete to 6-12-07

A SUMMARY OF SENATE BILL 386 AS PASSED BY THE SENATE 5-17-07

Public Act 714 of 2002 (enrolled Senate Bill 1127) amended the Michigan Penal Code to prohibit as criminal sexual conduct (CSC) sexual penetration or sexual contact with another person, if the actor (the person accused) is a teacher, substitute teacher, or administrator of a public or nonpublic school in which the other person is enrolled, even if the person is over the age of consent. The intent of the legislation was to prohibit consensual sex between teachers or school administrators and students. As enacted, the act applied to situations involving students 17 years of age and younger.

When the other person is at least 13 but less than 16 years old, a violation involving sexual penetration is first-degree CSC and a violation involving sexual contact is second degree CSC. When the other person is at least 16 but less than 18, a violation involving sexual penetration is third degree CSC and a violation involving sexual contact is fourth degree CSC.

However, the third- and fourth-degree violations do not apply if the other person is emancipated or if the two people are lawfully married to each other at the time of the alleged violation. (Sexual conduct with a person 12 years of age and younger constitutes first-degree CSC.)

Senate Bill 386 would amend the penal laws to expand these provisions to apply to school volunteers, other school employees, and contractual service providers and to include teachers and workers employed by a school district; intermediate school district; or federal, state, or local government. Specifically, a person would be guilty of criminal sexual conduct if he or she is a teacher, substitute teacher, administrator, *employee, or contractual service provider* of the public or nonpublic school, *school district, or intermediate school district* in which the other person (student) is enrolled, *or is a volunteer who is not a student in any school in grades K through 12, or is a state, municipal, or federal employee* (i.e., a school liaison officer employed by a law enforcement agency) *assigned to provide any service to that public or nonpublic school, school district, or intermediate school district.* (Italics denote new language.)

Also, sexual conduct or sexual penetration with a special education student who was at least 16 years old but less than 26 years of age and who was receiving special education services would be CSC in the first or second degree, if the actor was a teacher, substitute

teacher, administrator, *employee, or contractual service provider* of the public or nonpublic school, *school district, or intermediate school district* in which the other person (student) is enrolled, *or is a volunteer who is not a student in any school in grades K through 12, or is a state, municipal, or federal employee* (i.e., a school liaison officer employed by a law enforcement agency) *assigned to provide any service to that public or nonpublic school, school district, or intermediate school district.* (Italics denote new language.)

MCL 750.520b et al.

FISCAL IMPACT:

The bill's fiscal impact would depend on how it affected convictions and sentences for criminal sexual conduct. To the extent that the bill increased numbers of convictions or severity of sentences, it could increase state or local correctional costs. The average appropriated cost of incarceration in a state prison is about \$31,000 per prisoner annually, a figure that includes allocated portions of various fixed costs. Costs of additional offenders placed on probation would be borne by the state (although fourth-degree criminal sexual conduct is a misdemeanor, it is a two-year misdemeanor, and violators placed on probation for the offense are supervised by MDOC field agents, not local district court probation staff); the state's average cost of parole and probation supervision is about \$2,000 per supervised offender per year. Costs of any jail incarceration would be borne by the affected county and vary with jurisdiction. Any increase in penal fine revenue could benefit local libraries, which are the constitutionally-designated recipients of such revenues.

There are no data to indicate how many offenders might be convicted under the proposed circumstances. However, in 2005, there were 2,976 dispositions for first-, second-, third-, and fourth-degree criminal sexual conduct. Of those, 1,860 were sentenced to prison, 770 to probation, 208 to jail, and 138 to some "other" sanction, such as a delayed or suspended sentence or a commitment under the Holmes Youthful Trainee Act.

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