



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bills 760 through 764 (as reported without amendment)
Senate Bill 765 (Substitute S-1 as reported)
Senate Bills 766 and 767 (as reported without amendment)
Sponsor: Senator Ron Jelinek
Committee: Judiciary

Date Completed: 10-19-09

RATIONALE

Recently, the Prosecuting Attorneys Association of Michigan (PAAM) reviewed criminal statutes to determine which crimes were not being prosecuted and to recommend whether those offenses should be removed from the books. As a result, PAAM has endorsed the repeal of criminal offenses involving dueling, taking a woman and forcing her to marry, and prizefighting. In addition, it has been suggested that sentencing guidelines designations for felony convictions of those crimes and other references to them be deleted from Michigan's statutes.

CONTENT

The bills would amend several statutes to repeal the crimes of dueling, taking a woman and forcing her to marry, and prizefighting, and to delete provisions relating to those crimes.

Senate Bills 760 and 761 are tie-barred to Senate Bill 762. Senate Bill 764 is tie-barred to Senate Bill 763. Senate Bill 766 is tie-barred to Senate Bill 765.

Senate Bill 762

The bill would repeal Section 171 of the Michigan Penal Code, which prohibits and prescribes a penalty for engaging in or challenging to fight a duel. Under Section 171, a person who engages in a duel with any deadly weapon or who challenges

another to fight such a duel, or who sends or delivers any written or verbal message purporting or intended to be such a challenge, is guilty of a felony punishable by up to 10 years' imprisonment and/or a maximum fine of \$5,000, and may not hold or be elected or appointed to any place of honor, profit, or trust under the State Constitution or Michigan law.

Senate Bill 761

The bill would amend the Code of Criminal Procedure to delete the felony of dueling from the sentencing guidelines. Currently, the offense is a Class E felony against a person with a statutory maximum sentence of 10 years' imprisonment.

Senate Bill 760

The bill would amend the Corrections Code to refer to "former" Section 171 of the Penal Code in the list of crimes for which a prisoner is not eligible for parole until he or she has served the minimum term imposed by the court, less an allowance for disciplinary credits, and is not eligible for special parole.

Senate Bill 763

The bill would repeal Section 11 of the Michigan Penal Code, which prohibits and prescribes a penalty for taking a woman and compelling her to marry. Specifically, a

person who takes any woman unlawfully and against her will, and by force, menace, or duress, compels her to marry him or any other person, or to be defiled, is guilty of a felony punishable by imprisonment for life or any term of years.

Senate Bill 764

The bill would amend the Code of Criminal Procedure to delete from the sentencing guidelines the felony of taking a woman and compelling her to marry. Currently, the offense is a Class A felony against a person with a statutory maximum penalty of imprisonment for life.

Senate Bill 765 (S-1)

The bill would repeal Chapter 66 (Prize Fights) of the Michigan Penal Code. Under Chapter 66, it is a felony to be a party to or to engage, aid, or abet in a prize fight; to engage or assist in the training of any party to a prize fight; or knowingly to carry any person to or from a prize fight. It is a misdemeanor to be present willfully at a prize fight, to give or publish notice or invite any person to attend a prize fight, or to enter into any agreement or understanding or aid, advise, or counsel in the making of a prize fight.

Chapter 66 provides that it does not apply to any contests or exhibitions conducted, held, or given pursuant to the Michigan Unarmed Combat Regulatory Act (which regulates organized bouts such as boxing or mixed martial arts contests).

Senate Bill 766

The bill would amend the Code of Criminal Procedure to delete from the sentencing guidelines the felonies of participating in prize fights and prize-fight training. Currently, both offenses are Class G felonies against the public order, with a statutory maximum sentence of four years' imprisonment. The bill is tie-barred to Senate Bill 765.

Senate Bill 767

The bill would amend the Michigan Unarmed Combat Regulatory Act to delete a provision specifying that any boxing, mixed martial arts, or sparring contest conforming to the requirements of that Act and to the rules of

the Department of Energy, Labor, and Economic Growth is not considered to be a prize fight for purposes of Chapter 66 of the Michigan Penal Code.

MCL 791.233b (S.B. 760)
777.16i (S.B. 761)
750.171 (S.B. 762)
750.11 (S.B. 763)
777.16a (S.B. 764)
750.442-750.447 (S.B. 765)
777.16v (S.B. 766)
338.3622 (S.B. 767)

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

The crimes of dueling, taking a woman and compelling her to marry, and prizefighting should be repealed, as Senate Bills 762, 763, and 765 (S-1) propose, since these prohibitions apparently are of little or no use as specific offenses. A prosecuting attorney testified before the Senate Judiciary Committee on behalf of PAAM that he was not aware of a single prosecution of those crimes during his tenure of more than 20 years as a prosecutor. The actions involved in each of those crimes could be prosecuted as other offenses, perhaps even more easily, so taking them off the books would not mean that the prohibited activities would be legal. For instance, a person could be charged with kidnapping or sexual assault rather than with taking a woman and forcing her to marry, without having the burden of proving the additional elements of compelling the victim to marry or defiling her.

Also, if the offenses were repealed, the sentencing guidelines designations for felony violations should be deleted from the Code of Criminal Procedure, as proposed by Senate Bills 761, 764, and 766. In addition, Senate Bills 760 and 767 would revise a reference to the crime of dueling and remove a reference to the prize-fighting prohibitions.

Response: While Senate Bill 763 would repeal Section 11 of the Michigan Penal Code (taking a woman and compelling her to marry), it does not address Section 12 of the Penal Code, which makes it a felony punishable by up to 10 years' imprisonment

for a person to take a woman unlawfully and against her will *with intent* to compel her to marry him or any other person or to be defiled. If the life sentence for completing that offense were to be repealed, it stands to reason that the 10-year sentence for acting with intent to do so also should be repealed.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders will be convicted, or have been convicted under Section 11 or 171, or Chapter 66, of the Michigan Penal Code. To the extent that the bills would decrease convictions, the State would incur lower incarceration costs. At present, the average annual cost of incarceration in a State correctional facility is \$34,000 per prisoner and the average annual cost of felony probation is approximately \$2,000 per prisoner. Local governments would avoid any costs associated with incarceration in local facilities, which vary by county. Additionally, the State would lose the ability to collect fines, which benefit public libraries.

Fiscal Analyst: Matthew Grabowski

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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.