

## **ADMISSIBILITY OF PRIOR ACTS OF SEXUAL CRIMES: EXPAND**

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**House Bill 4190 as introduced**  
**Sponsor: Rep. Laura Cox**  
**Committee: Law and Justice**  
**Complete to 2-27-17**

Analysis available at  
<http://www.legislature.mi.gov>

### **SUMMARY:**

Currently, if a defendant in a criminal case is accused of committing an offense against a minor that is a Tier I, II, or III sexual offense under the Sex Offenders Registration Act, evidence that the defendant committed another listed offense is admissible at trial.

House Bill 4190 amends the Code of Criminal Procedure to delete the reference to an act against a minor and thus expands applicability of the provision to allow evidence that the accused committed another listed offense to be admissible in any criminal case alleging a Tier I, II, or III offense.

As defined in the Sex Offenders Registration Act (SORA), "listed offense" means a Tier I, II, or III offense. A conviction for a Tier I offense requires registration under the SORA for 15 years, Tier II requires registration for 25 years, and Tier III requires lifetime registration.

The bill takes effect 90 days after enactment.

MCL 768.27a

### **BACKGROUND INFORMATION:**

Tier I offenses include possession of child pornography, indecent exposure while fondling genitalia (if the victim is a minor); unlawful imprisonment (if the victim is a minor); prostitution with a minor; criminal sexual conduct in the 4th-degree (if the victim is an adult); certain crimes associated with surveilling another when the person has the expectation of privacy (if the victim is a minor); and any other violations of law that constitute a sexual offense (if the victim is a minor).

Tier II offenses include accosting, enticing or soliciting a child for immoral purpose; producing or distributing child pornography; committing or attempting to commit, or soliciting another to commit, various sexual offenses in which the victim or intended victim is or is believed to be a minor; with some exceptions based on age of victim and perpetrator—sodomy or gross indecency (if the victim is a minor); human trafficking of a minor for the commercial sex trade; accosting or soliciting a minor to commit prostitution; inducing another to become a prostitute; 2nd- or 4rd-degree criminal sexual conduct

(victim 13 to 18 years of age); 2nd-degree criminal sexual conduct (victim at least 18 years of age); or attempting or conspiring to any of the above.

Tier III offenses include gross indecency (victim 12 years of age or younger); kidnapping (victim a minor); taking or enticing away child under 14 years of age; 1st and 3rd criminal sexual conduct (with some exceptions for consensual acts based on age of victim and perpetrator); 2nd degree criminal sexual conduct (victim 12 years old or younger); 4th-degree criminal sexual conduct (victim 12 years old or younger and perpetrator at least 17 years old); or attempting or conspiring to do any of the above.

#### **FISCAL IMPACT:**

To the extent that House Bill 4190 results in a greater number of convictions, it could increase costs on the state's correctional system and on local court systems. Information is not available on the number of persons that might be convicted under the provisions of the bill, but new felony convictions would result in increased costs related to state prisons and state probation supervision. In fiscal year 2016, the average cost of prison incarceration in a state facility was roughly \$36,000 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$3,500 per supervised offender in the same year. The fiscal impact on local court systems would depend on how the provisions of the bill affected caseloads and related administrative costs. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

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