



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 337 (Substitute S-3 as reported by the Committee of the Whole)
Senate Bill 338 (as reported without amendment)
Senate Bill 368 (Substitute S-5 as reported by the Committee of the Whole)
Senate Bill 369 (Substitute S-1 as reported by the Committee of the Whole)
Sponsor: Senator Margaret E. O'Brien (S.B. 337)
Senator Rick Jones (S.B. 338)
Senator Tonya Schuitmaker (S.B. 368)
Senator Judy Emmons (S.B. 369)
Committee: Judiciary

CONTENT

Senate Bill 337 (S-3) would add Section 136 to the Michigan Penal Code to prohibit a person from knowingly performing a surgical operation to circumcise, incise, excise, or infibulate all or any part of the labia majora, labia minora, clitoris, or contiguously surrounding tissue of another person who was less than 18 years of age, regardless of whether the operation caused physical deformity, residual pain, or loss of sensation. A person who violated this prohibition would be guilty of a felony punishable by up to 15 years' imprisonment.

A surgical operation would not be a violation if either of the following conditions applied: a) the operation was necessary to the health of the person on whom it was performed, and it was performed by a licensed medical practitioner; or b) the operation was performed on a person in labor or who had just given birth and it was performed for medical purposes connected with that labor or birth by a licensed medical practitioner or midwife, or a person in training to become a licensed medical practitioner.

It would not be a defense to prosecution for a violation that the defendant believed either of the following concerning the operation: a) that the person on whom the operation was performed or would be performed was 18 years of age or older; or b) that the operation would be or was required as a matter of custom or ritual.

Senate Bill 368 (S-5) would add Section 136a to the Michigan Penal Code to prohibit a person from knowingly transporting a person from Michigan for the purpose of conduct, with regard to that person, that would be a violation of proposed Section 136 if the conduct occurred in Michigan. A person who violated this prohibition would be guilty of a felony punishable by up to 15 years' imprisonment.

The bill specifies that Section 136a would not prohibit a person from being charged with, convicted of, or punished for any other violation of law arising out of the same transaction as a violation of Section 136a.

Senate Bills 338 and 369 (S-1) would amend the sentencing guidelines in the Code of Criminal Procedure to include the felonies proposed by Senate Bill 337 (S-3) and Senate Bill 368 (S-5) as Class B crimes against a person, each with a statutory maximum of 15 years.

Senate Bill 338 and Senate Bill 368 (S-1) are tie-barred to Senate Bill 337. Senate Bill 369 (S-1) also is tie-barred to Senate Bill 368.

Proposed MCL 750.136 (S.B. 337)
MCL 777.16g (S.B. 338)
Proposed MCL 750.136a (S.B. 368)
MCL 777.16g (S.B. 369)

Legislative Analyst: Jeff Mann

FISCAL IMPACT

Senate Bills 337 (S-3) and 368 (S-5) could have a negative fiscal impact on State and local government. More felony arrests and convictions could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. The average cost to State government for felony probation supervision is approximately \$3,024 per probationer per year. For any increase in prison intakes, in the short term, the marginal cost to State government would be approximately \$3,764 per prisoner per year.

Senate Bills 338 and 369 (S-1) would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge* (in which the Court struck down portions of the sentencing guidelines law). According to one interpretation of that decision, the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bills would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

Date Completed: 5-17-17

Fiscal Analyst: Ryan Bergan