



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 368 (Substitute S-2 as reported)
Senate Bill 369 (as reported without amendment)
Sponsor: Senator Tonya Schuitmaker (S.B. 368)
Senator Judy K. Emmons (S.B. 369)
Committee: Judiciary

CONTENT

Senate Bill 368 (S-2) would amend the Michigan Penal Code to prohibit a person from knowingly performing a surgical operation to circumcise, 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 or licensed midwife.

It would not be a defense to prosecution for a violation that the person on whom the operation was performed or would be performed, or any other person, believed that the operation was required as a matter of custom or ritual.

The bill also would 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 the proposed prohibition if the conduct occurred in Michigan.

Senate Bill 369 would amend the sentencing guidelines in the Code of Criminal Procedure to include the felony proposed by Senate Bill 368 (S-2) as a Class B crime against a person with a statutory maximum of 15 years.

Senate Bill 369 is tie-barred to Senate Bill 368.

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

Legislative Analyst: Jeff Mann

FISCAL IMPACT

Senate Bill 368 (S-2) 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 Bill 369 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 bill 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: 5-10-17

Fiscal Analyst: Ryan Bergan