



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bills 368 and 369 (as introduced 5-9-17)
Sponsor: Senator Tonya Schuitmaker (S.B. 368)
Senator Judy K. Emmons (S.B. 369)
Committee: Judiciary

Date Completed: 5-9-17

CONTENT**Senate Bill 368 would amend the Michigan Penal Code to do the following:**

- Prohibit a person from knowingly circumcising, excising, or infibulating any part of the labia majora, labia minora, or clitoris of another person under 18 years old, or knowingly facilitating such an operation.
- Prohibit a person from knowingly transporting a person from Michigan for the purpose of performing a prohibited operation.
- Specify that a surgical operation would not be a violation of the proposed prohibition if it were performed under certain conditions.
- Prescribe a penalty of up to 15 years' imprisonment and/or a maximum fine of \$25,000 for a violation.
- Specify that it would not be a defense to prosecution for a violation that any person believed that the operation was required as a matter of custom or ritual.

Senate Bill 369 would amend the sentencing guidelines in the Code of Criminal Procedure to include the offense proposed by Senate Bill 368 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. Each bill would take effect 90 days after its enactment.

Senate Bill 368 is described in more detail below.

The bill would add section 136 to the Michigan Penal Code to prohibit a person from knowingly circumcising, excising, or infibulating the whole or any part of the labia majora, labia minora, or clitoris of another person who was less than 18 years of age, or from knowingly facilitating such an operation. 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 prohibitions if the conduct occurred in Michigan.

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 person licensed to perform the operation under the Public Health Code; 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 person licensed to perform that operation under the Public Health Code.

A person who violated Section 136 would be guilty of a felony punishable by up to 15 years' imprisonment or a maximum fine of \$25,000, or both. 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 specifies that Section 136 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 that section.

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

Legislative Analyst: Jeff Mann

FISCAL IMPACT

Senate Bill 368

The bill 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. Any increase in fine revenue would benefit public libraries.

Senate Bill 369

The bill 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.

Fiscal Analyst: Ryan Bergan

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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.