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Senate Bills 1083 through 1085 (as introduced 11-7-24)

Sponsor: Senator Jeff Irwin

Committee: Civil Rights, Judiciary, and Public Safety

Date Completed: 12-2-24

CONTENT

Senate Bill 1085 would amend the Michigan Penal Code to repeal Section 29 through Section 32, which prohibit and prescribe penalties for adultery and the cohabitation of divorced parties.

Senate Bill 1084 would delete sentencing guidelines in the Code of Criminal Procedure for the offenses of adultery and cohabitation by divorced parties.

Senate Bill 1083 would amend the Code of Criminal Procedure to delete a form of adultery that could be used in applicable court cases for the prosecution of adultery.

Senate Bills 1083 and 1084 are tie-barred to Senate Bill 1085.

Senate Bill 1085

Section 29 of the Michigan Penal Code defines "adultery" as the sexual intercourse of two persons, either of whom is married to a third person. Section 30 prescribes a felony of up to four years' imprisonment to any person committing adultery and specifies that when adultery is committed between a married woman and a man who is unmarried, the man is guilty of adultery and liable to the same punishment. Section 31 specifies that only the husband or wife can commence a prosecution for adultery and the commencement must take place within a year of the offense being committed. Finally, Section 32 specifies that if any divorced individuals cohabit, those individuals are liable for the penalties provided against adultery.

The bill would repeal Sections 29 through 32 of the Code.

Senate Bill 1083

Chapter 7 (Grand Juries, Indictments, Information, and Proceedings Before Trial) of the Code of Criminal Procedure prescribes certain forms of crimes that may be used in cases prosecuting those crimes. Specific for adultery, Chapter 7 prescribes the following form: A.B., a married man, committed adultery with C.D. or A.B. committed adultery with C.D. a married woman. The bill would delete this form for adultery.

Senate Bill 1084

Currently, under the Code of Criminal Procedure adultery and cohabitation of divorced parties are each a Class H Felony against the public ordinance with a maximum of four years' imprisonment. The bill would delete these sentencing guidelines.

MCL 767.44 (S.B. 1083)
777.16a (S.B. 1084)
750.29-750.32 *repealed* (S.B. 1085)

Legislative Analyst: Eleni Lionas

FISCAL IMPACT

Senate Bill 1084 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 ruled that 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.

The bills would have no fiscal impact on State or local courts or the Department of Attorney General.

Fiscal Analyst: Joe Carrasco, Jr.
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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.