

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA**BILL ANALYSIS**

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 4065 (Substitute H-7 as passed by the House)
Sponsor: Representative Lyn Bankes
House Committee: Judiciary
Senate Committee: Health Policy and Senior Citizens

Date Completed: 5-5-98

CONTENT

The bill would amend the Public Health Code to eliminate the “650 lifer law”; make it a felony to deliver a controlled substance to a person in order to commit or attempt to commit criminal sexual conduct; and classify as Schedule 4 controlled substances flunitrazepam and gamma-hydroxybutyrate.

Currently, under the Code, a person convicted of manufacturing, creating, delivering, possessing with intent to deliver, or possessing 650 grams or more of a mixture containing a Schedule 1 or 2 narcotic or cocaine must be sentenced to imprisonment for life without parole. (A juvenile tried and convicted as an adult, however, may be sentenced to imprisonment for any term of years, but not less than 25 years. Also, the Michigan Supreme Court has overturned the “no-parole” feature of the possession offense.) The bill would eliminate the life imprisonment requirement and the provision that allows a juvenile to be sentenced for not less than 25 years. The bill provides instead that a person convicted of violating the 650 grams prohibition would be guilty of a felony punishable by imprisonment for life or any term of years, but not less than 20 years.

The bill also provides that a person who, without an individual’s consent, delivered a controlled substance or caused a controlled substance to be delivered to that individual to commit or attempt to commit against that individual first-, second-, third-, or fourth-criminal sexual conduct, or assault with intent to commit criminal sexual conduct, would be guilty of a felony, punishable by imprisonment for up to 20 years. A conviction or sentence under this provision would not prohibit a conviction or sentence for any other crime arising out of the same transaction. The violation and penalty in the bill would apply regardless of whether the person was convicted of a criminal sexual conduct violation or attempted violation.

The bill would classify as Schedule 4 controlled substances flunitrazepam and gamma-hydroxybutyrate. Under the Code, a substance must be placed in Schedule 4 if it has a low potential for abuse relative to Schedule 3 substance (which may lead to moderate or low physical dependence or high psychological dependence); if it has a currently accepted medical use in the United States; and if abuse of the substance may lead to limited physical or psychological dependence relative to Schedule 3 substances. Schedule 4 substances include such things as phenobarbital, barbital, chloral hydrate, and diazepam.

The bill specifies an effective date of January 1, 1998.

MCL 333.7218 et al.

Legislative Analyst: G. Towne

FISCAL IMPACT

House Bill 4065 (H-7) would have an indeterminate fiscal impact on State government and no apparent fiscal impact on local government.

There are no data available to indicate how sentencing and conviction patterns would change as a result of the changes proposed in the bill to MCL 333.7401(2)(a)(i), manufacturing, delivering, or possessing 650 grams or more of a controlled substance. To the extent that those convicted would receive a minimum sentence less than life in prison, costs for incarceration would decrease.

Additionally, there are no data to indicate how many people may be convicted of using a controlled substance to commit a criminal sexual conduct violation, a new crime created by the bill, nor are there data to indicate the average minimum sentence patterns for this new crime. However, the new crime would not prevent conviction under other sections of law and, therefore, could increase the length of incarceration.

Fiscal Analyst: K. Firestone