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Senate Bill 471 (Substitute S-3 as passed by the Senate)
Senate Bill 472 (as passed by the Senate)
Senate Bill 528 (as passed by the Senate)
Sponsor: Senator Stephanie Chang (S.B. 471 & 472)
Senator Sue Shink (S.B. 528)
Committee: Civil Rights, Judiciary, and Public Safety

Date Completed: 10-23-23

INTRODUCTION

The bills would prohibit a person convicted of a misdemeanor that involved domestic violence from generally possessing or using a firearm or ammunition in the State until the person completed the terms of imprisonment and probation, paid all fines, and eight years had passed. They would add specific misdemeanors and fines for current crimes, such as breaking and entering and vulnerable adult abuse, if the violator were the victim's spouse or former spouse, had a dating relationship with the victim, had a child in common with the victim, or was a resident or former resident of the victim's household. These additional misdemeanors would be considered misdemeanors involving domestic violence.

Senate Bill 471 and Senate Bill 528 are tie-barred. Senate Bill 472 is tie-barred to Senate Bill 471.

FISCAL IMPACT

Senate Bill 471 (S-3) could have a negative fiscal impact on the State and local government. The bill would add a person convicted of a misdemeanor involving domestic violence to the list of persons who are not allowed to possess, use, transport, sell, purchase, carry, ship, receive, or distribute a firearm or ammunition until certain conditions outlined in the bill have been met. Violations of the proposed provisions would add new felony arrests and convictions and could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities; however, it is unknown how many people would be prosecuted under provisions of the bill. The average cost to State government for felony probation supervision is approximately \$4,200 per probationer per year. For any increase in prison intakes the average annual cost of housing a prisoner in a State correctional facility is an estimated \$45,700. Per diem rates range from \$98 to \$192 per day, depending on the security level of the facility. Any associated increase in fine revenue would increase funding to public libraries.

Senate Bill 528 could have a negative fiscal impact on district courts to an indeterminate degree. The fiscal impact would be associated with costs for additional charges, hearings, and/or trials for the additional crimes created in the bill. Additionally, the bill would have a negative fiscal impact on the State and local government. New misdemeanor arrests and convictions under the proposed bill could increase resource demands on law enforcement, community supervision, and jails; however, it is unknown how many people would be prosecuted under the provisions of the bill. Any additional revenue from imposed fines would go to local libraries and county law libraries.

MCL 750.224f (S.B. 471); 777.16m (S.B. 472)
750.115 et al. (S.B. 528)

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CONTENT

Senate Bill 471 (S-3) would amend the Michigan Penal Code to prohibit a person convicted of a misdemeanor that involved domestic violence from generally possessing or using a firearm or ammunition in the State until the person completed the terms of imprisonment and probation, paid all fines, and eight years had passed.

Senate Bill 472 would amend the Code of Criminal Procedure to prescribe sentencing guidelines for the possession or sale of a firearm or ammunition by a prohibited person.

Senate Bill 528 would amend the Michigan Penal Code to prescribe separate misdemeanor penalties and fines for specified violations of the Code, such as breaking and entering and vulnerable adult abuse, if the violator were the victim's spouse or former spouse, had a dating relationship with the victim, had a child in common with the victim, or was a resident or former resident of the victim's household.

Senate Bill 471 (S-3)

Among other things, the Penal Code prohibits a person convicted of specified crimes from using or possessing a firearm until that person meets conditions prescribed by the Code. For example, a person convicted of a felony may not use or possess a firearm until the person has paid all fines, served all terms of imprisonment, successfully completed all conditions of probation or parole, and three years have passed after doing such. The Code prescribes a felony punishable by up to five years or a fine of not more than \$5,000, or both, for a violation of this prohibition.

Under the bill, a person convicted of a misdemeanor involving domestic violence could not possess, use, transport, sell, purchase, carry, ship, receive, or distribute a firearm or ammunition in Michigan until the person met all the requirements described above and eight years had passed after meeting them. The penalty described above also would apply to a violation of the bill's prohibition.

"Misdemeanor involving domestic violence" would mean a violation of any of the following offenses committed by an individual who is 1) the spouse of; 2) the former spouse of; 3) the current or previous dating partner of; 4) the current or former resident of a household with; or 5) had a child in common with, the victim:

- Assault and battery, or repeated assault and battery.
- Assault without a weapon that inflicts serious or aggravated injury without intent to commit murder or to inflict great bodily harm.
- Breaking and entering into any dwelling without first obtaining permission.
- Vulnerable adult abuse, provided the caregiver or other person with authority was guilty of a reckless act or reckless failure to act of the caregiver or other person with authority over a vulnerable adult caused physical harm to the vulnerable adult, or the caregiver or other person with authority over the vulnerable adult knowingly or intentionally committed an act that, under the circumstances, posed an unreasonable risk of harm or injury to a vulnerable adult, regardless of whether physical harm resulted.
- Willful and malicious destruction of personal property of less than \$1,000, or repeated offense involving willful and malicious destruction of personal property of less than \$1,000.
- Willful and malicious destruction of another person's house, barn, or other building or its appurtenances of less than \$1,000, or a repeated offense involving willful and malicious

destruction of another person's house, barn, or other building or its appurtenances of less than \$1,000.

- Stalking.
- Malicious use of any service provided by a telecommunications service provider with intent to terrorize, frighten, intimidate, threaten, harass, molest, or annoy another person.
- An ordinance, law of another state, or Federal law that substantially corresponded with the violations listed above.
- An ordinance, law of another state, or Federal law specifically designated as domestic violence.

("Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a causal relationship or an ordinary fraternization between two individuals in a business or social context.)

Senate Bill 472

Under the Code of Criminal Procedure, the possession or sale of a firearm or ammunition by a felon is a Class E felony against the public safety with a maximum of five years' imprisonment. The bill would modify these provisions, and instead, the possession or sale of a firearm or ammunition by a *prohibited person* would be a Class E felony against the public safety with a maximum of five years' imprisonment.

Senate Bill 528

(The bill would define "dating relationship" as frequent, intimate associations primarily characterized by the expectation of affectional involvement. The term would not include a casual relationship or ordinary fraternization of two individuals in a business or social context.)

Breaking and Entering

Under the Code, an individual who breaks and enters or enters without breaking any dwelling or structure, whether occupied or unoccupied, without first obtaining permission from the owner, occupant, or appropriate agent or person is guilty of a misdemeanor.

Under the bill, if an individual acts as described above and the owner or occupant, agent, or person having immediate control of the dwelling or structure is the individual's spouse or former spouse, an individual with whom the individual had a dating relationship, an individual with whom the individual had a child in common, or a resident or former resident of the individual's household, the individual would be guilty of a misdemeanor.

Vulnerable Adult Abuse

Among other degrees of vulnerable adult abuse, a caregiver or other person with authority over a vulnerable adult is guilty of vulnerable adult abuse in the fourth degree if the reckless act or reckless failure to act causes physical harm to the vulnerable adult or a caregiver or other person with authority over a vulnerable adult knowingly commits an act that poses an unreasonable risk of harm or injury to a vulnerable adult. Vulnerable adult abuse in the fourth degree is a misdemeanor punishable by up to one year's imprisonment or a fine of up to \$1,000, or both.

("Vulnerable adult" generally includes an individual aged 18 or over who, because of age, developmental disability, mental illness, or physical disability requires supervision or personal care.)

Under the bill, a caregiver or other person with authority over the vulnerable adult would be guilty of vulnerable adult abuse in the fourth degree if the caregiver or other person with authority over the vulnerable adult violated the provisions described above and one or more of the following circumstances applied:

- The caregiver or other person with authority over the vulnerable adult was the spouse or former spouse of the victim.
- The caregiver or other person with authority over the vulnerable adult was an individual with whom the victim had a dating relationship.
- The caregiver or other person with authority over the vulnerable adult was an individual with whom the victim had a child in common.
- The caregiver or other person with authority over the vulnerable adult was a resident or former resident of the victim's household.

Destruction of Property

Under the Code, a person who willfully and maliciously destroys or injures the personal property of another person is guilty of specified crimes. Under the bill, if the person and the property owner were spouses or former spouses, had a dating relationship, had a child in common, or were residents or former residents of the same household, and any of the following applied, the person would be guilty of a misdemeanor punishable by up to one year's imprisonment or a fine of up to \$2,000 or three times the amount of the destruction or injury, whichever was greater, or both:

- The amount of the destruction or injury was \$200 or more but less than \$1,000.
- The destruction or injury was less than \$200 and the person had one or more prior convictions for committing or attempting to commit such an offense.

In addition, a person who willfully and maliciously destroyed or injured the personal property of another person would be guilty of a misdemeanor punishable by up to 93 days' imprisonment or a fine of up to \$500 or three times the amount of destruction or injury, whichever was greater, or both, if the person and the property owner were spouses or former spouses, had a dating relationship, had a child in common, or were residents or former residents of the same household.

The Code also prohibits a person from willfully or maliciously destroying or injuring another person's house, barn, or other building or its appurtenances. Under the bill, if the person and the property owner were spouses or former spouses, had a dating relationship, had a child in common, or were residents or former residents of the same household and if any of the following applied, the person who violated this prohibition would be guilty of a misdemeanor punishable by up to one year's imprisonment or a fine of up to \$2,000 or three times the amount of the destruction or injury, whichever was greater, or both:

- The amount of the destruction or injury was \$200 or more but less than \$1,000.
- The destruction or injury was less than \$200 and the person had one or more prior convictions for committing or attempting to commit such an offense.

In addition, a person who willfully and maliciously destroyed or injured another person's house, barn, or other building or its appurtenances would be guilty of a misdemeanor punishable by up to 93 days' imprisonment or a fine of up to \$500 or three times the amount of destruction or injury, whichever was greater, or both, if the person and the property owner were spouses or former spouses, had a dating relationship, had a child in common, or were residents or former residents of the same household.

Stalking

Under the Code, an individual who engages in stalking is guilty of a misdemeanor or felony, depending on the specified circumstances. Under the bill, a person who engaged in stalking would be guilty of a misdemeanor punishable by up to one year's imprisonment or a fine of up to \$1,000, or both, if the victim and the individual were spouses or former spouses, had a dating relationship, had a child in common, or were residents or former residents of the same household.

Malicious Use of Telecommunications Services

The Code generally prescribes a misdemeanor to a person who maliciously uses any services provided by a telecommunications service provider with the intent to terrorize, intimidate, harass, or annoy another person. Examples of prohibited actions when using these services include threatening physical harm or damage to any person or property during a conversation or message and falsely reporting the injury, illness, or death of another person, among other prohibited actions that could result in a misdemeanor.

Under the bill, a person who used any services provided by a telecommunications service provider with the intentions and actions described above would be guilty of a misdemeanor if the person and the other person were spouses or former spouses, had a dating relationship, had a child in common, or were residents or former residents of the same household.

BRIEF RATIONALE

According to testimony, victims of domestic violence are five times more likely to be murdered if their abusers have access to a firearm. Some people have concern that minor incidents of domestic violence may escalate into major incidents that result in a victim's murder. Accordingly, it has been suggested that a person who committed a specified misdemeanor involving domestic violence be prohibited from possessing or using a firearm for some time.

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

Senate Bill 471 is similar to Senate Bill 678 and House Bill 5372 of the 2021-2022 Legislative Session. Senate Bill 472 is a reintroduction of Senate Bill 679 and House Bill 5371 of the 2021-2022 Legislative Session.

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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.