

Legislative Analysis



MELODY'S LAW

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Senate Bills 841, 842, and 843 as enrolled

Sponsor: Sen. Veronica Klinefelt

House Committee: Judiciary

Senate Committee: Civil Rights, Judiciary, and Public Safety

Complete to 7-1-24

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Acts 79, 80, and 66 of 2024)

SUMMARY:

Senate Bill 841 would prohibit both of the following:

- **Sexual contact** with a dead human body, which would be a misdemeanor punishable by imprisonment for up to two years or a fine of up to \$500, or both.
- **Sexual penetration** with a dead human body, which would be a felony punishable by imprisonment for up to 15 years.

Sexual contact would include intentionally touching the genital area, groin, inner thigh, buttock, or breast of a dead human body, or the clothing covering that area, or intentionally causing a dead human body to touch the violator's genital area, groin, inner thigh, buttock, or breast, or the clothing covering that area if the intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification, as being done for a sexual purpose, or as being done in a sexual manner for revenge, to inflict humiliation, or out of anger.

Sexual penetration would mean entry by the person's penis, finger, or tongue, or another object, into a dead human body's genital opening, anal opening, or mouth; entry by any part of the person's body or some object into the dead human body's genital opening or anal opening; or touching by the person's mouth or tongue of the dead human body's genital opening or genital organs. Any entry, no matter how slight, would be sexual penetration, and it would not matter whether the sexual act was completed or whether semen was ejaculated.

A term of imprisonment for a violation described above could be imposed to run consecutively to any term of imprisonment imposed for another violation arising from the same transaction.

The provisions described above could be cited as "Melody's Law."

Proposed MCL 750.160d

Senate Bill 842 would amend the Code of Criminal Procedure to add the offenses proposed by Senate Bill 841 to the sentencing guidelines. Sexual contact with a dead human body would be a class G crime against a person with a two-year statutory maximum term of imprisonment. Sexual penetration with a dead human body would be a class C crime against a person with a 15-year statutory maximum term of imprisonment.

MCL 777.161

Senate Bill 843 would amend the Sex Offenders Registration Act (SORA) to add the offenses proposed by SB 841. Sexual contact with a dead human body would be a Tier I offense under SORA, and sexual penetration with a dead human body would be a Tier III offense.

Among other things, an offender's tier classification under SORA determines how long they are required to register and how many times a year they must report to verify their address. Tier I offenders are subject to the act for 15 years and must report once a year, Tier II offenders are subject for 25 years and must report twice a year, and Tier III offenders must report four times a year for life. Note that additional factors, such as prior convictions, also factor into an offender's tier classification under SORA.

MCL 28.722

Each bill would take effect 90 days after the date it is enacted. However, Senate Bills 842 and 843 can only take effect if Senate Bill 841 is also enacted.

BACKGROUND:

According to committee testimony, Senate Bill 841 is called "Melody's Law" in memory of Melody Rohrer, a 64-year-old retired nurse from southwest Michigan who was murdered in September 2021 and apparently sexually violated after her death by the man who had killed her. In investigating the case, it was found that Michigan does not now have a law making sexual violation of a dead body a crime. The apparent lack of such a law was noted by the Court of Appeals in 1995 in *People v Hutner*, which found that the state's criminal sexual conduct laws also do not apply if the victim is dead at the time of the offense.¹

FISCAL IMPACT:

Senate Bill 841 would have an indeterminate fiscal impact on the state and on local units of government. The number of convictions that would result under provisions of the bill is not known. Violations could be either misdemeanors or felonies, depending on the circumstances. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. New felony convictions would result in increased costs related to state prisons and state probation supervision. In fiscal year 2023, the average cost of prison incarceration in a state facility was roughly \$48,700 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$5,400 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue. Any fiscal impact on the judiciary and local court systems would depend on how provisions of the bill affect court caseloads and related administrative costs. It is difficult to project the actual fiscal impact to courts due to variables such as law enforcement practices, prosecutorial practices, judicial discretion, case types, and complexity of cases. Any increase in penal fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

¹ https://scholar.google.com/scholar_case?case=10846078931405736368&q=people+v+hutner&hl=en&as_sdt=4,23

There would be minimal costs to the Department of State Police from adding violations of the crimes described in Senate Bill 841 to the Michigan Public Sex Offender Registry under Senate Bill 843. Costs would include those from updating charges in the violation tables and from any increased enforcement activity related to the crimes. Any increase in costs could be supported from the department's existing ongoing appropriations.

Senate Bill 842 is a companion bill to Senate Bill 841 and would amend the sentencing guidelines chapter of the Code of Criminal Procedure to include the proposed offenses in Senate Bill 841. The bill would not have a direct fiscal impact on the state or on local units of government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations and does not constitute an official statement of legislative intent.