



Senate Fiscal Agency
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Senate Bills 841 through 843 (as enrolled)
Sponsor: Senator Veronica Klinefelt
Senate Committee: Civil Rights, Judiciary, and Public Safety
House Committee: Judiciary

Date Completed: 6-25-24

RATIONALE

In 2021, Melody Rohrer was murdered and following her murder was the victim of sexual assault. The perpetrator of this crime was found guilty of first-degree murder, concealing the death of an individual, and failing to stop at the scene of an accident but was not charged with a crime pertaining to the subsequent assault (see **BACKGROUND**). The State does not currently have a specific prohibition on necrophilia, and according to testimony, current laws do not go far enough to hold perpetrators accountable. It has been suggested to criminalize necrophilia and to require an offender to register with the Michigan Public Sex Offender Registry (SOR).

CONTENT

Senate Bill 841 would amend the Michigan Penal Code to do the following:

- Prescribe a misdemeanor punishable by a maximum of two years' imprisonment or a maximum fine of \$500, or both, for engaging in sexual contact with a dead human body.
- Prescribe a felony punishable by a maximum of 15 years' imprisonment for engaging in sexual penetration with a dead human body.

Senate Bill 842 would amend the sentencing guidelines in the Code of Criminal Procedure to include the felonies proposed by **Senate Bill 841**.

Senate Bill 843 would amend the Sex Offenders Registration Act to include a violation of sexual contact with a dead human body and sexual penetration with a dead human body proposed under **Senate Bill 841** as a tier I offense and a tier III offense, respectively.

Senate Bill 842 and Senate Bill 843 are tie-barred to Senate Bill 841. Each bill would take effect 90 days after its enactment.

Senate Bill 842 and Senate Bill 843 are described in greater detail below.

Senate Bill 841

The bill would amend the Michigan Penal Code to prescribe a misdemeanor punishable by a maximum of two years' imprisonment or a maximum fine of \$500, or both, to an individual who engaged in sexual contact with a dead human body. Additionally, an individual who engaged in sexual penetration with a dead human body would be guilty of a felony punishable by a maximum of 15 years' imprisonment. The bill would specify that a term of imprisonment described above could run consecutively to any term of imprisonment imposed for another violation that arose from the same transaction.

"Sexual contact" would include intentionally touching the genital area, groin, inner thigh, buttock, breast, or the clothing area, of a dead human body, or the actor intentionally causing the dead human body to touch the actor'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, done for a sexual purpose, or in a sexual manner for revenge, to inflict humiliation, or out of anger.

"Sexual penetration" would mean entry into the dead human body's genital opening, anal opening, or mouth by the actor's penis, finger, tongue, or other object, or the touching of the dead human body's genital opening or organs by the actor's mouth or tongue. Sexual penetration also could be entry by any part of the actor's body or some object into the genital or anal opening of the dead human body. Any entry, no matter how slight, would be sexual penetration. Sexual penetration would have occurred whether or not the sexual act was completed or whether or not semen was ejaculated.

The bill specifies that the Act could be cited as "Melody's Law".

Senate Bill 843

The Sex Offenders Registration Act prescribes registration and reporting requirements for sex offenders and penalties for offenders who fail to register. Offenders are classified into three tiers based on the severity of the offense and whether the offender is a repeat offender. A tier I offender must stay in a non-public registry for 15 years and must verify information annually. Tier III offenders must stay on the public registry for life and must verify information four times a year.

Generally, a tier I offense includes at least one of the following:

- Possession of child sexually abusive material.
- Indecent exposure involving fondling, including if the victim is a minor.
- Unlawful imprisonment of a minor.
- Engaging or offering to engage another person under the age of 18 for the purposes of prostitution.
- Criminal sexual conduct in the fourth degree.
- Assault with intent to commit second degree criminal sexual conduct.
- Surveillance or photography of an unclothed person if the victim is a minor.

The bill would include a violation of engaging in criminal sexual conduct with a dead human body proposed by Senate Bill 841 as a tier I offense.

A tier III offender includes individuals subsequently convicted of a tier I or tier II offense or an individual convicted of a tier III offense. Some tier III offenses include the following:

- Gross indecency against a minor under 13 years of age.
- Kidnapping a minor.
- Eliciting a child under 14 years of age from his or her parents.
- First degree criminal sexual conduct against a minor between 13 and 17 years of age.
- First or second criminal sexual conduct against a minor under 13 years of age.
- Assault with intent to commit criminal sexual conduct including penetration.

The bill would include a violation of engaging in sexual penetration with a dead human body proposed by Senate Bill 841 as a tier III offense.

Proposed MCL 750.160d (S.B. 841)
MCL 777.16i (S.B. 842)
28.722 (S.B. 843)

BACKGROUND

Melody Rohrer

In 2021, Melody Rohrer was murdered and following her murder was the victim of sexual assault. The perpetrator of this crime was found guilty of first-degree murder, concealing the death of an individual, and failing to stop at the scene of an accident. Evidence presented in court to demonstrate motive included a used condom with the perpetrators and Melody's DNA and a detective report showing that the term "necro" appeared at least 22 times on the perpetrators phone within a month of the murder and related searches included words such as "kill" and "dead". The perpetrator was not charged with the subsequent assault.¹

People v Hunter

According to a 1995 Michigan Court of Appeals opinion, criminal sexual misconduct requires a live victim at the time of penetration and that the term "victim" means a person alleging to have been subjected to criminal sexual conduct. The opinion specified that a dead body is not a person and that in a case of murder to commit sexual assault the assault could be used to support a conviction of first-degree premeditated murder, not first-degree felony murder. Specifically, criminal sexual assault requires a live victim and there is no apparent statute prohibiting necrophilia.²

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Criminalizing necrophilia would increase public safety and hold criminals accountable. According to testimony before the Senate Committee on Civil Rights, Judiciary, and Public Safety, convictions should represent the severity of the crime that was committed and criminals who have murdered someone with the intent to engage in necrophilia are not appropriately charged. Prohibiting necrophilia would give the justice system the tools to seek appropriate accountability. Additionally, if a perpetrator of necrophilia that was convicted of other crimes was released from custody, that individual would not have to appear on the SOR. The publicly available charges associated with that individual would not accurately reflect the act that was committed.

Legislative Analyst: Eleni Lionas

FISCAL IMPACT

Senate Bills 841 & 842

The bills would have a negative fiscal impact on the State and local government. New felony arrests and convictions under the bills 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 bills. The average cost to State government for felony probation supervision is approximately \$4,600 per probationer per year. For any increase in prison intakes the average annual cost of housing a

¹"Jury Finds White Pigeon Man Guilty of Intentionally Killing Jogger and Hiding Her Body," News Channel 3. Retrieved 6-11-24.

² *People v. Hunter*, 209 Mich App 208 (1995).

prisoner in a State correctional facility is an estimated \$48,700. Per diem rates range from \$100 to \$431 per day (average per diem is \$135), depending on the security level of the facility. Any associated increase in fine revenue would increase funding to public libraries.

The bills would have no fiscal impact on State or local courts.

Senate Bill 843

The bill would have a minimal fiscal impact on the Department of State Police. The Department, which administers the SOR, would have to add a violator of Senate Bill 841 to the SOR and update the charges in the violation tables. There also would be some minimal costs associated with enforcement and court costs for violators, to a degree that cannot be determined at this time as it would depend on the number of offenders under the new law.

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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.