

Legislative Analysis



PROSTITUTION: REMOVE GENDER REFERENCES & INCREASE PENALTIES

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5231

Sponsor: Rep. Joseph Graves

House Bill 5232

Sponsor: Rep. Nancy E. Jenkins

Committee: Criminal Justice

Complete to 2-4-14

A SUMMARY OF HOUSE BILLS 5231 AND 5262 AS INTRODUCED 1-22-14

House Bill 5231 would remove gender references in several prostitution-related provisions and provide an enhanced penalty for engaging a person under 18 years of age in prostitution.

House Bill 5231 would place a new felony penalty for engaging a person younger than 18 years of age in prostitution in the sentencing guidelines.

House Bill 5231 would amend the Michigan Penal Code (750.449a et al). Numerous prostitution-related provisions prohibit certain conduct towards females, with some prohibiting conduct by males towards females or towards their own wives. Such gender-specific references would be eliminated and other revisions made as follows:

Section 449a: Currently, it is a misdemeanor punishable by not more than 90 days in jail and/or a fine of not more than \$500 for a male to engage or offer to engage the services of a female who is not his wife for the purpose of prostitution, lewdness, or assignation by the payment in money or other forms of consideration. The bill would instead apply the penalty contained in Section 451 to any person engaging the services of another for the stated purposes. The penalty for a first offense would thus be increased to imprisonment for not more than 93 days and/or a fine of not more than \$500 dollars, with enhanced penalties for subsequent offenses. (Note: Section 451 was previously amended to apply the greater penalties to a violation of Sec. 449a, but for some reason, Sec. 449a retained the lower penalty language.)

Section 451: Currently, a person 16 years of age or older may receive an enhanced penalty for a second violation; the bill would remove the age restriction. Also, the bill would specify that a violation of Section 449a (engaging another in prostitution) in which the other person was under 18 years of age would be a felony punishable by imprisonment for not more than four years and/or a fine of not more than \$5,000. The bill also deletes a provision stating that a person convicted of violating this provision would be subject to venereal disease control measures.

Section 452: Currently, keeping, maintaining, or operating a house of prostitution (or aiding or abetting another to do so) is a felony punishable by imprisonment for not more than five years or a fine of not more than \$2,500. The bill would increase the maximum fine to \$5,000 and allow a court to impose both incarceration and a fine.

Section 455: Currently, it is a 20-year felony to pander a female for the purposes of prostitution. The bill would remove the references to a female and apply the prohibitions to conduct targeting males or females.

Section 456: Currently, it is a 20-year felony for a man to place or leave his wife by force, fraud, intimidation, or threat in a house of prostitution or to lead a life of prostitution. The bill would instead apply the provision to any person engaging in the prohibited conduct towards a spouse.

Section 457: Currently, it is a 20-year felony to knowingly accept, receive, or appropriate money or a valuable thing without consideration from a woman engaged in prostitution. The bill would apply the provision to conduct involving any person.

Section 458: It is a felony punishable by at least two years but not more than 20 to attempt to detain a female in a house of prostitution because of debts she has (or is said to have) contracted while living in the house. The bill would apply the provision to such conduct against any person.

Section 459: Transporting, or aiding or abetting transporting, a female for the purpose of prostitution or to induce or compel that female into prostitution is a 20-year felony. The bill would change all references to a "female" to "any person."

Section 460: The bill would specify that a person who violated the provisions of Chapter LXVII (Prostitution) may be tried and punished in any county in which the prostitution was intended to be practiced, or in which the offense was consummated. Further, the provision currently specifies that it is not a defense to a prosecution for acts prohibited by *certain sections* of the chapter that those acts were committed outside the state. The bill would apply this statement to any violation of Chapter LXVII.

House Bill 5232 amends the Code of Criminal Procedure (MCL 777.16w) to specify that engaging or offering to engage the services of a minor for an act of prostitution would be a Class F felony against the public order with a maximum term of imprisonment of four years. The bill would also remove references to a "female" contained in two other provisions and instead apply them to a "person." The bill is tie-barred to House Bill 5231, meaning that it could not take effect unless House Bill 5231 is also enacted into law.

FISCAL IMPACT:

The bills would have an indeterminate fiscal impact on state and local correctional systems. Information is not available on the number of persons that might be convicted

under the new provisions. New felony convictions could result in increased costs related to state prisons, county jails, and/or state probation supervision. New misdemeanor convictions could increase costs related to county jails and/or local misdemeanor probation supervision. The average cost of prison incarceration in a state facility is roughly \$35,600 per prisoner per year, a figure that includes various fixed administrative and operational costs. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. State costs for parole and felony probation supervision average about \$3,600 per supervised offender per year. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Robin Risko

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