



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bills 585, 586, and 587 (as introduced 10-3-13)

Sponsors: Senator Mike Nofs (S.B. 585)
Senator Tory Rocca (S.B. 586)
Senator Vincent Gregory (S.B. 587)

Committee: Families, Seniors and Human Services

Date Completed: 11-12-13

CONTENT

Senate Bill 585 would amend the Michigan Penal Code to do the following:

- Increase from 16 years old to 18 the age at which someone can be guilty of a prostitution offense.
- Prohibit local units of government from enacting or enforcing an ordinance regarding prostitution crimes that set a lower minimum age than the age established in the Code.
- Require a police officer to immediately take a minor into custody for purposes of a family court hearing if the officer had reasonable cause to believe that the minor was engaging in prostitution.

Senate Bill 586 would amend the juvenile code to do the following:

- Give the family court jurisdiction over proceedings concerning a minor who committed a prostitution violation.
- Require the court hearing to determine if there was reasonable cause to believe that a minor committed a prostitution violation while being a victim of human trafficking.
- Require the court to refer the minor to the Department of Human Services for care as a victim of human trafficking, if the court found reasonable cause to believe that he or she committed the offense while being a victim of human trafficking.

Senate Bill 587 would amend the Foster Care and Adoption Services Act to do the following:

- Require a supervising agency that was providing foster care for a child to include information in the child's medical passport indicating that he or she could be a victim of human trafficking.
- Require a supervising agency to have a mental health professional perform a psychological evaluation of a child who was alleged to be a victim of human trafficking.
- Require the supervising agency to provide appropriate counseling services if, after an evaluation, the child were determined to have been a victim of human trafficking.

Senate Bills 585 and 586 are tie-barred to each other. Senate Bill 586 also is tie-barred to Senate Bill 587.

Senate Bill 585

Sections 448, 449, 450, and 451 of the Michigan Penal Code contain provisions regarding prostitution offenses.

Section 448 provides that a person 16 years of age or older who accosts, solicits, or invites another person in a public place or in or from a building or vehicle to commit prostitution or to do any other lewd or immoral act is guilty of a crime punishable as provided in Section 451.

Section 449 provides that a person 16 years of age or older who receives or admits or offers to receive or admit a person into a place, structure, house, building, or vehicle for the purpose of prostitution, lewdness, or assignation, or who knowingly permits a person to remain in a place, structure, house, building, or vehicle for the purpose of prostitution, lewdness, or assignation, is guilty of a crime punishable as provided in Section 451.

Section 450 provides that a person 16 years of age or older who aides, assists, or abets another person to commit or offer to commit an act prohibited under Section 448 or 449 is guilty of a crime punishable as provided in Section 451.

Under Section 451, a person convicted of violating Section 448, 449, or, 450, or a substantially corresponding law, is guilty of a misdemeanor punishable by imprisonment for up to 93 days and/or a maximum fine of \$500. If the person has a prior conviction under any of those sections or section 4490 or 462, the person is guilty of a misdemeanor punishable by imprisonment for up to one year and/or a maximum fine of \$1,000. A person who has two or more prior convictions is guilty of a felony punishable by imprisonment for up to two years and/or a maximum fine of \$2,000. (Section 449a prohibits a male from engaging or offering to engage the services of a female, who is not his wife, for the purposes of prostitution. Section 462 generally prohibits allowing a person under 16 years old to remain in a house of prostitution.)

Under the bill, Sections 448, 449, and 450 would apply to a person who was 18 years of age or older.

In addition, the bill would add Section 451c, which would require a police officer to immediately take a minor into custody for purposes of a hearing if the officer had reasonable cause to believe that the minor was engaging in conduct proscribed in Section 448, 449, or 450. The officer would have to take the minor into custody under Section 14 of the juvenile code for purposes of a hearing under Section 11a. (Section 14 allows an officer to take a child who is found violating any law or ordinance immediately into custody without a court order. Senate Bill 586 would add Section 11a, which is discussed below.)

Also, except as provided in Section 451c, the bill would prohibit a local unit of government from enacting or enforcing an ordinance that proscribed the conduct addressed in Section 448, 449, or 450 if the ordinance established a lower minimum age for the violator than the age established in those sections. ("Local unit of government" would mean a city, village, township, community college, college, or university.)

Senate Bill 586

The juvenile code establishes the jurisdiction of family court (the Family Division of circuit court). Under the bill, jurisdiction would be extended to proceedings concerning a juvenile under 18 years old found to be violating Section 448, 449, 450, or 451 of the Michigan

Penal Code, or a substantially corresponding local ordinance. This would apply to any case filed on or after the bill's effective date, and to cases pending in the circuit court on the effective date. Any case pending in the circuit court on the effective date would have to be transferred to family court.

If a juvenile were taken into custody for a violation of Section 448, 449, 450, or 451 of the Penal Code, or a substantially corresponding local ordinance, the court would have to promptly hold a hearing to determine whether there was reasonable cause to believe that the juvenile committed the violation while being a victim of human trafficking.

If the court determined that there was reasonable cause to believe the juvenile was a victim of human trafficking, it would have to refer the juvenile to the Department of Human Services for care as a victim of human trafficking. The court also would have to inform the juvenile of his or her right to make a claim as a crime victim. Notwithstanding a referral to the Department, the court could continue to exercise jurisdiction over the juvenile under the juvenile code.

Senate Bill 587

Under the Foster Care and Adoption Services Act, a supervising agency that provides foster care for a child must develop a medical passport for the child, which must contain medical information and history, immunization records, and any other information concerning the child's physical and mental health. (A supervising agency is the Department of Human Services of a child placing agency that provides foster care to a child.)

The bill would require a supervising agency to include information in a child's medical passport indicating that the child could be a victim of human trafficking.

A supervising agency must have an experienced and licensed mental health professional who is trained in children's psychological assessments perform an assessment or psychological evaluation of a child who has suffered sexual abuse, serious physical abuse, or mental illness. The bill also would require an assessment or evaluation of a child who was alleged to be a victim of human trafficking.

If, after the assessment or evaluation, the child were determined to have been a victim of human trafficking, the supervising agency would have to provide appropriate counseling services, in addition to any reunification, adoption, or other services.

MCL 750.448 et al. (S.B. 585)
712A.2 et al. (S.B. 586)
722.954c (S.B. 587)

Legislative Analyst: Glenn Steffens

FISCAL IMPACT

Senate Bill 585

By raising the minimum age of individuals who may be charged with prostitution –related offenses from 16 to 18 years, the bill could result in fewer misdemeanor and felony convictions for the affected offenses. Fewer convictions would result in a minor reduction in costs of incarceration and/or community supervision for State and local government. Juveniles over 16 years of age who might otherwise have been charged with a crime could in some case be referred to the Department of Human Services, which would have an indeterminate impact on costs for the Department.

Senate Bill 586

The bill would cause a minor increase in administrative costs for the family division of local court systems. Each time a juvenile was taken into custody for participation in prostitution-related offenses, the family court would be required to hold a hearing to consider whether the juvenile was involved with human trafficking.

Senate Bill 587

The bill could result in a minimal fiscal impact on the Department of Human Services budget and local units of government.

Actual costs would be affected by several factors, particularly the number of minor victims of human trafficking who were identified as such and became wards of the State. The estimated number of total victims, including adults, ranges up to 1,800 annually. Of the cases involving minors who would enter foster care, most would be temporary court wards. Less than 50% of children in foster care overall are State wards. The remaining are court wards or are in temporary foster care and would not be covered by services that are described in this bill. Additionally, foster care services are provided by both the Department and private service providers. It is undetermined whether the existing infrastructure would be sufficient to provide counseling that was specific to victims of human trafficking. The Department could be required to develop specific protocols and provide training to public and private foster care providers. In cases in which the costs of care are split 50-50 between the State and counties, rather than the State and the Federal government, any potential cost increase would be shared by both entities.

Requests for information are pending regarding: 1) the percentage of foster care children who are State wards; and 2) whether State wards who are supervised by the Department of Human Services would receive the required counseling services through their assigned caseworkers at no additional cost to the State.

Fiscal Analyst: Dan O'Connor
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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.