

Legislative Analysis



MAKE CHILD CARE DEATHS DUE TO LICENSING VIOLATIONS 2nd DEGREE CHILD ABUSE

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 746 (H-1, as proposed)
Sponsor: Sen. Tonya Schuitmaker

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

Senate Bill 747 (S-2 as passed by the Senate)
Sponsor: Sen. Dave Hildebrand
House Committee: Criminal Justice
Senate Committee: Judiciary
Revised on 4-25-16

SUMMARY:

Taken together, the bills would specify that certain persons licensed under the Child Care Licensing Act would be guilty of second degree child abuse if they willfully violated the licensing rules for family and group child care homes and the violation caused the death of a child.

The bills are tie-barred to each other, meaning that neither can become law unless both are enacted. Both bills would take effect 90 days after enactment.

Senate Bill 746 amends the Child Care Licensing Act, Public Act 116 of 1973 (MCL 722.125). Under the bill, if a person, child care organization, agency, or representative or officer of a firm, corporation, association, or organization (hereinafter "person") willfully violates a licensing rule for family and child care homes (R 400.1901-1963), and if the violation causes the death of a child, the person would be guilty of second degree child abuse. In addition to any other penalty imposed, the person's license or certificate of registration would be permanently revoked.

In general, violations of the act are punishable by a fine of not less than \$100 or more than \$1,000 and/or imprisonment for not more than 90 days.

["Child caring organization" means a governmental or nongovernmental organization having as its principal function receiving minor children for care, maintenance, training, and supervision, notwithstanding that educational instruction may be given. Child care organization includes organizations commonly described as child caring institutions, child placing agencies, children's camps, children's campsites, children's therapeutic group homes, child care centers, day care centers, nursery schools, parent cooperative preschools, foster homes, group homes, or child care homes.

R 400.1901-400.1963, entitled "Licensing Rules for Family and Group Child Care Homes," pertain to the family child care home registrant or group child care home licensee who provides direct care, supervision, and protection of children in care. The rules cover caregiver responsibilities, training, capacity (number of children for which the home is

registered), infant supervision and sleeping, discipline of children, and various safety requirements, among other things.]

Senate Bill 747 would amend the Michigan Penal Code (MCL 750.136b). Under the bill, a person, or a licensee as defined under the Child Care Licensing Act, who violates the provisions of Senate Bill 746 would be guilty of child abuse in the second degree. The offense is a felony punishable by imprisonment for not more than 10 years for a first offense and not more than 20 years for a second or subsequent offense.

FISCAL IMPACT:

The bills would have an indeterminate fiscal impact on the state's correctional system. The fiscal impact would depend on the number of persons convicted under provisions of the bills. New felony convictions would result in increased costs related to state prisons and state probation supervision. The average cost of prison incarceration in a state facility is roughly \$35,200 per prisoner per year, a figure that includes various fixed administrative and operational costs. 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. Also, the bills would have an indeterminate fiscal impact on the judiciary and local court funding units. The fiscal impact would depend on how provisions of the bills affected caseloads and related administrative costs.

The bills would have no significant impact on the Department of Health and Human Services.

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