



Senate Fiscal Agency
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BILL



ANALYSIS

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Senate Bill 51 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Christopher D. Dingell
Committee: Health Policy and Senior Citizens

Date Completed: 3-4-96

RATIONALE

While there are a number of things, particularly certain medical treatments, for which a minor, by law, must obtain parental consent, it has been pointed out that no such requirement exists for tattooing or body-piercing. In fact, Michigan evidently is one of 21 states that has no regulation at all regarding tattoos. This means, then, that a minor can go to a willing tattoo parlor, or a street fair for that matter, and obtain a permanent design on his or her skin and the minor's parents have no cause of action against the tattoo artist. In recent years, the number of persons obtaining a tattoo or tattoos appears to have greatly increased.

According to an article in the Journal of the American Academy of Dermatology (May 1995), while there have been no documented cases of HIV transmission from tattooing, the procedure is not risk-free; there have been cases of the spreading of hepatitis B through tattoo needles. The article reports that professional societies for tattoo artists now recommend the use of medical-grade protective gloves and instrument sterilization according to guidelines of the Federal Occupational Safety and Health Administration. Further complications have been reported as a result of the tattooing procedure, such as bleeding during the application and allergic reactions to the pigments used. Reportedly, removal of a tattoo poses another set of risks and often results in a permanent scar or other skin problems, and can be expensive. It has been suggested that, because of the potential health hazards and the permanent nature of tattooing, body-piercing, and branding, parental permission should be obtained before a person could perform any of these procedures on a minor.

CONTENT

The bill would amend the Public Health Code to add a provision that would make it a misdemeanor for a person to tattoo, brand, or perform body-piercing on a minor unless the person obtained the prior written informed consent of the minor's parent or legal guardian. The minor's parent or legal guardian would have to execute the written consent in the presence of the person performing the tattooing, branding, or body-piercing on the minor, or in the presence of an employee or agent of the person. Further, the bill would make it a misdemeanor for a person to tattoo, brand, or perform body-piercing on any other person if the other person were under the influence of intoxicating liquor or a controlled substance.

The misdemeanor would be punishable by imprisonment for up to 90 days, a fine of up to \$500, or both, per violation. A person who committed a violation also would be liable for a civil action for the greater of actual damages or \$1,000, plus reasonable court costs and attorney fees.

Under the bill, "body-piercing" would be the perforation of human tissue, other than an ear, for nonmedical purposes. A "tattoo" would be an indelible mark made on the body of another person by the insertion of a pigment under the skin, or an indelible design made by the production of scars other than by branding. "Branding" would be a permanent mark made on human tissue by burning with a hot iron or other instrument.

Proposed MCL 333.13101-333.13103

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

There are many activities in which minors cannot participate until or unless parental consent is granted; however, tattooing is not among them. Tattooing, in fact, is not regulated at all in Michigan, meaning that if a minor finds a willing tattoo artist, he or she can obtain a permanent tattoo, or body-piercing or branding for that matter, and there is little that his or her parents can do about it. Tattooing and body-piercing are invasive skin procedures that often cause bleeding, and while there have been no documented cases of HIV transmission from tattooing, the potential risk from these procedures should not be ignored. Persons who wish to obtain a tattoo or a body-piercing should, at least, be of the age of consent or have parental consent before being allowed to make the irreversible decision of exposing themselves to the risks, and having themselves permanently marked.

Legislative Analyst: G. Towne

FISCAL IMPACT

The bill would have an indeterminate, yet likely small fiscal impact on local government, and no fiscal impact on State government.

There is no reliable way to predict how many violations of the bill's new provision would occur. To the extent that violators would be prosecuted and sanctioned, local units of government could incur additional costs, the extent of which is indeterminate, yet likely relatively small.

Fiscal Analyst: M. Hansen

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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.