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House Bill 4983 (Substitute S-1 as reported by the Committee of the Whole)

House Bill 4984 (Substitute H-2 as reported without amendment)

Sponsor: Representative Steve Tobocman (H.B. 4983)

Representative Bill Huizenga (H.B. 4984)

House Committee: Criminal Justice

Senate Committee: Judiciary

CONTENT

House Bill 4983 (S-1) would create the "Michigan Immigration Clerical Assistant Act". ("Immigration clerical assistant" would mean an individual providing or offering to provide services, for compensation, relating to any immigration matter.) The bill would require the Department of Labor and Economic Development (DLEG) to establish an immigration clerical assistant list as a fully functional program within 180 days after the bill's effective date; require DLEG to impose fees to cover the costs of administering the program (including a \$250 application fee, and a \$90 renewal fee, for a three-year listing); require an immigration clerical assistant to apply to DLEG for placement on the list; and exempt from the listing requirement certain individuals, such as attorneys, people representing nonprofit organizations recognized by the Board of Immigration Appeals, nonprofit religious, charitable, or social service organizations, and certain established translation businesses.

The bill would establish maximum fees that an immigration clerical assistant could charge for certain services. An immigration clerical assistant would have to enter into a written contract with a consumer before rendering any service or accepting compensation; file and maintain a corporate surety or cash bond of at least \$50,000; return original documents to a consumer; and keep copies of documents for at least three years.

The bill would prohibit an immigration clerical assistant from offering or giving legal advice; falsely representing that his or her services were necessary; taking advantage of a consumer's inability to protect his or her interests due to a disability, illiteracy, or an inability to understand the language of any government document or form; making a false or fraudulent representation of fact; guaranteeing or promising a specific benefit or result; or engaging in various other activities described in the bill.

A first violation of the bill would be a misdemeanor punishable by up to 93 days' imprisonment and/or a maximum fine of \$1,000. A second or subsequent offense would be a felony punishable by up to two years and/or \$10,000. Violators also would be subject to, civil and administrative sanctions.

<u>House Bill 4984 (H-2)</u> would amend the Code of Criminal Procedure to include in the sentencing guidelines a second or subsequent violation of the proposed "Michigan Immigration Clerical Assistant Act". That offense would be a Class G felony against the public trust with a statutory maximum sentence of two years' imprisonment. The bill is tie-barred to House Bill 4983 and would take effect on October 1, 2004.

MCL 777.13p (H.B. 4984)

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government.

According to the Department of Labor and Economic Growth, there are an estimated 500 groups or individuals providing these services. If each one registered and paid the fee, the estimated revenue would be \$125,000 for the first year and \$15,000 each subsequent year if the number of providers is correct. These funds would be used to create and administer the registry.

There are no data to indicate how many offenders would be convicted of the proposed misdemeanor and felony offenses. Local units incur the costs of misdemeanor probation and incarceration in a local facility, both of which vary by county. The State incurs the cost of felony probation at an average annual cost of \$1,800, as well as the cost of incarceration in a State facility at an average annual cost of \$28,000. Public libraries would benefit from any revenue raised due to additional penal fines.

Date Completed: 6-2-04 Fiscal Analyst: Maria Tyszkiewicz

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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.