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House Bill 5104 (Substitute H-1 as passed by the House) Sponsor: Representative William Van Regenmorter

House Committee: Criminal Justice

Senate Committee: Judiciary

Date Completed: 3-9-04

CONTENT

The bill would amend the Michigan Penal Code to include vulnerable adult abuse in the Code's felony murder provision. Under this provision, murder committed in the perpetration or attempt of certain felonies constitutes first-degree murder and requires a sentence of life imprisonment. The offenses currently include: arson, first-, second-, and third-degree criminal sexual conduct; first-degree child abuse; a major controlled substance offense; robbery; carjacking; breaking and entering of a dwelling; first- and second-degree home invasion; larceny of any kind; extortion; and kidnapping. Under the bill, a murder committed during the commission of, or attempt to commit, vulnerable adult abuse also would be punishable by life imprisonment.

A caregiver is guilty of first-degree vulnerable adult abuse if he or she intentionally causes serious physical harm or serious mental harm to a vulnerable adult. A caregiver or other person with authority over a vulnerable adult is guilty of second-degree vulnerable adult abuse if the caregiver's or other person's reckless act or reckless failure to act causes serious physical harm or serious mental harm to a vulnerable adult. A caregiver is guilty of third-degree vulnerable adult abuse if he or she intentionally causes physical harm to a vulnerable adult. A caregiver or other person with authority over a vulnerable adult is guilty of fourth-degree vulnerable adult abuse if the caregiver's or other person's reckless act or reckless failure to act causes physical harm to a vulnerable adult.

"Vulnerable adult" means one or more of the following:

- -- An individual 18 or over who, because of age, developmental disability, mental illness, or physical disability requires supervision or personal care or lacks the personal and social skills required to live independently.
- -- An adult as defined in Section 3(1)(b) of the Adult Foster Care Facility Licensing Act (MCL 400.703), i.e., a person who is at least 18 years of age and is placed in an adult foster care home.
- -- An adult as defined in Section 11(b) of the Social Welfare Act (MCL 400.11), i.e., a person who is at least 18 and is suspected of being or is believed to be abused, neglected, or exploited.

MCL 750.316 Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill could result in increased costs to the State. The cost of incarceration would increase to the extent that offenders who commit a murder during the commission of vulnerable adult abuse, are currently convicted of a felony other than first-degree murder,

and receive a prison sentence other than life in prison, under the bill would receive a life sentence as required by the first-degree murder statute. Vulnerable adult abuse has a maximum sentence of 15 years. According to the Department of Corrections Statistical Report, in 2001 there were six offenders convicted of vulnerable adult abuse. None of them received jail or prison time, nor were any offenders in prison for committing vulnerable adult abuse. However, there are no data to indicate how many offenders currently are convicted of murder or another serious crime for an offense involving vulnerable adult abuse. The State would incur the cost of any additional incarceration at an average annual cost of \$28,000.

Fiscal Analyst: Bethany Wicksall

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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.