

Legislative Analysis



STUDENT SAFETY ZONE VIOLATIONS: CLARIFY PENALTIES

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House Bill 5397 as introduced
Sponsor: Rep. Edward Gaffney, Jr.
Committee: Judiciary

First Analysis (11-28-05)

BRIEF SUMMARY: The bill would clarify that a felony offense would be triggered when a sex offender had previous "convictions" rather than previous "violations".

FISCAL IMPACT: The bill would have an indeterminate impact on the state and local units of government, depending on how it affected numbers of convictions and sanctions imposed.

THE APPARENT PROBLEM:

Public Acts 121 and 127, both of which amended the Sex Offenders Registration Act, were part of the legislative package that created student safety zones and established penalties for violations. As of January 1, 2006, Public Act 127 will prohibit a registered sex offender from *working or loitering* within a student safety zone and Public Act 121 will prohibit a registered sex offender from *residing* within a student safety zone. As written, Public Acts 121 and 127 create a penalty for a second or subsequent "violation." Apparently, this wording is troublesome for prosecutors, as they must then attempt to document the number of times a person "violated" the prohibition. Such documentation can be time consuming and lead to disputes over accuracy between the prosecution and defense attorneys. It has been recommended that the law be amended to have the felony penalty triggered if a person violates the prohibition and already has a previous conviction.

THE CONTENT OF THE BILL:

House Bill 5397 would amend the Sex Offenders Registration Act to clarify that the felony penalty would apply to an individual who violated the prohibition on working or loitering in a student safety zone and had one or more prior convictions of doing so and to an individual who violated the prohibition on living in a student safety zone and had one or more prior convictions of doing so.

The bill would take effect January 1, 2006.

MCL 28.734 and 28.735

ARGUMENTS:

For:

The bill is considered to be technical in nature and would not make a substantive change to provisions enacted as part of the Student Safety Initiative. The bill simply clarifies that the felony penalty would be triggered if a registered sex offender worked or loitered within a student safety zone and he or she already had one such conviction. A felony penalty would also be triggered for a registered sex offender who was found to be living in a student safety zone and who also had a prior conviction for doing so.

POSITIONS:

There are no positions at this time.

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