

Legislative Analysis



STUDENT SAFETY ZONE VIOLATIONS: CLARIFY PENALTIES

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House Bill 5397 as enrolled
Public Act 322 of 2005
Sponsor: Rep. Edward Gaffney, Jr.
House Committee: Judiciary
Senate Committee: Judiciary

Second Analysis (8-16-06)

BRIEF SUMMARY: The bill would clarify that a felony offense would be triggered when a sex offender had previous "convictions" rather than previous "violations" and that the prohibitions on a convicted sex offender from entering a student safety zone would not prohibit an individual from exercising his or her right to vote.

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 of 2005, 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.

Another issue to be addressed concerns a problem experienced by individuals registered on the sex offenders registry who feel that their voting rights are being infringed upon by Public Act 127 because many polling stations are located within school buildings, which they are not allowed to enter. Attempts to obtain absentee ballots were denied because being a registered sex offender is not a currently listed criterion for which a city or township clerk could issue an absentee ballot.

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 also clarify that nothing in Section 34, which was added by Public Act 127 of 2005, could be construed to prohibit an individual from exercising his or her right to vote. In addition, the bill would make several changes that are editorial in nature.

The bill would take effect January 1, 2006.

MCL 28.725a, 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 clarifies that a person's right to vote would not be hindered by the provisions of Public Act 127 that prohibit a registered sex offender from entering a student safety zone. It also 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.

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