Legislative Analysis

Mitchell Bean, Director
Phone: (517) 373-8080
http://www.house.mi.gov/hfa

INCREASE PENALIES FOR FINANCIAL EXPLOITATION OF VULNERABLE ADULT

House Bills 4618 and 4727
Sponsor: Rep. Mike Huckleberry
Committee: Senior Health, Security, and Retirement

Complete to 4-28-09

A REVISED SUMMARY OF HOUSE BILL 4618 AS INTRODUCED 3-18-09 AND HOUSE BILL 4727 AS INTRODUCED 3-31-09

House Bill 4618 would amend section 174a of the Michigan Penal Code (MCL 750.174a) to increase penalties in some circumstances for the financial exploitation of vulnerable adults. It would specify that:

- A person in a relationship of trust with a vulnerable adult is guilty of a felony punishable by imprisonment for not more than 15 years and/or fine of up to $15,000 or three times the value of the money or property involved, whichever is greater, if any of the following apply:
  - The money or property used or obtained has a value of $50,000 or more but less than $100,000.
  - The person has two or more prior convictions for committing or attempting to commit an offense involving between $20,000 and $50,000.
- A person is guilty of a felony punishable by imprisonment of up to 20 years and/or a fine of not more than $50,000 or three times the value of the money or property involved, whichever is greater, if any of the following apply:
  - The money or property used, obtained or attempted to be obtained has a value of more than $100,000.
  - The money or property involved is between $50,000 and $100,000 and the person has two or more prior convictions for committing or attempting to commit an offense.

Currently, there are two felonies for this kind of offense with the most severe punishment being a maximum of 10 years' imprisonment and/or a fine of up to $15,000 or three times the value of the money or property involved, whichever is greater. This applies to cases involving money or property with a value of $20,000 or more or lesser amounts with prior convictions.

House Bill 4727 would put the new felonies in the Code of Criminal Procedures (MCL 777.16i). Embezzlement of $50,000 to $100,000 or of $20,000 to $50,000 with prior convictions would be a Class C felony against property with a 15-year maximum sentence. A crime involving more than $100,000 or $50,000 to $100,000 with prior convictions would be a Class B felony against property with a 20-year maximum sentence. House Bill 4727 is tie-barred to House Bill 4618.

FISCAL IMPACT:

The bills' fiscal impact would depend on the extent to which they increased the severity of felony sentences. To the extent that more felons were sentenced to prison or were sentenced to prison for longer terms, the state could incur increased costs. The average appropriated cost of prison incarceration is roughly $33,000 per prisoner per year, a figure that includes various fixed administrative and operational costs. To the extent to which offenders who received local sanctions were sentenced to longer periods of jail incarceration or probation supervision, counties or the state could incur additional costs. Counties could incur additional costs of jail incarceration, which vary by county. The state could experience additional costs of probation supervision; exclusive of the cost of electronic tether, parole and probation supervision averages about $2,100 per supervised offender per year.

The 15-year felonies would be Class C crimes against property. Exclusive of sentences for habitual offenders, the guidelines-recommended minimum sentence for a Class C offense varies from 0 - 11 months, for which a non-prison sanction is required, to 62-114 months, for which a prison sentence is mandated. The 20-year felonies would be Class B crimes against property. Exclusive of sentences for habitual offenders, the guidelines-recommended minimum sentence for a Class B offense varies from 0-18 months, for which a non-prison sanction is required, to 117-160 months, for which a prison sentence is required.

Any increases in penal fine revenue could benefit local libraries, which are the constitutionally-designated recipients of such revenues.

Legislative Analyst: E. Best
Fiscal Analyst: Marilyn Peterson