



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bills 5575 and 5576 (as reported by the Committee of the Whole)
House Bill 5577 (Substitute S-1 as reported by the Committee of the Whole)
House Bill 5578 (Substitute H-1 as reported by the Committee of the Whole)
House Bill 5579 (as discharged)

Sponsor: Representative Dudley Spade (H.B. 5575)
Representative Richard LeBlanc (H.B. 5576)
Representative Vicki Barnett (H.B. 5577)
Representative Shanelle Jackson (H.B. 5578)
Representative Lee Gonzales (H.B. 5579)

House Committee: Judiciary
Senate Committee: Judiciary

CONTENT

House Bill 5575 would amend Chapter 67A (Human Trafficking) of the Michigan Penal Code to prohibit a person from knowingly doing either of the following:

- Providing or obtaining the labor or services of another person by force, fraud, or coercion.
- Recruiting, harboring, transporting, providing, or obtaining a person for labor or services for the purpose of holding him or her in involuntary servitude or debt bondage.

A violation would be a felony and, except as described below, would be punishable by imprisonment for up to 10 years, a maximum fine of \$10,000, or both.

If the violation involved the forced labor or trafficking of a minor (an individual less than 18 years old), a commercial sex act, or serious physical harm to any person, the penalty would be imprisonment for up to 20 years, a maximum fine of \$20,000, or both.

If the violation involved the death of any person, the penalty would be imprisonment for life or any term of years, a maximum fine of \$50,000, or both.

House Bill 5576 would amend the sentencing guidelines in the Code of Criminal Procedure to include the offenses proposed by House Bill 5575. Each offense would be categorized as a felony against a person.

If a violation did not involve a minor, a commercial sex act, serious physical harm, or death, it would be a Class D felony with a statutory maximum sentence of 10 years.

If a violation involved a minor, a commercial sex act, or serious physical harm, it would be a Class B felony with a statutory maximum of 20 years.

A violation that resulted in death would be a Class A felony with a statutory maximum of life.

House Bill 5577 (S-1) would amend the Michigan Penal Code to include a violation of Chapter 67A as a racketeering offense.

The Code prohibits a person from engaging in certain activities through a "pattern of racketeering activity" (at least two incidents of racketeering that have interrelated characteristics and amount to or pose a threat of continuing criminal activity). "Racketeering" means committing, attempting to commit, conspiring to commit, or aiding or abetting, soliciting, coercing, or intimidating a person to commit an offense for financial gain, involving any of the violations specified in the Code. The bill would include a violation of Chapter 67A.

House Bill 5578 (H-1) would amend the Revised Judicature Act to include human trafficking and terrorism offenses among the crimes for which property is subject to seizure and forfeiture.

House Bill 5579 would amend the Crime Victim's Rights Act to require a court, when sentencing a defendant convicted of an offense described in Chapter 67A of the Penal Code, to order restitution for the full amount of loss suffered by the victim. In addition to restitution ordered under Section 16, the court could order the defendant to pay all of the following:

- Lost income, calculated by the method that would result in the largest amount (based on three methods described in the bill).
- The cost of transportation, temporary housing, and child care expenses incurred by the victim because of the offense.
- Attorney fees and other costs and expenses incurred by the victim because of the offense, including lost wages, child care, transportation, and parking expenses related to assisting the investigation and attending court proceedings.
- Any other loss suffered by the victim as a proximate result of the offense.

(Section 16 requires a sentencing court to order restitution to a victim or a victim's estate. Restitution may include reimbursement for lost or damaged property; payment for medical services and devices, physical or psychological care or therapy, homemaking and child-care expenses, and funeral expenses; and reimbursement for lost income.)

All of the bills are tie-barred to each other. House Bills 5575, 5576, 5577 (S-1), and 5578 (H-1) would take effect on March 1, 2011.

Proposed MCL 750.462j (H.B. 5575)
MCL 777.16w (H.B. 5576)
750.159g (H.B. 5577)
600.4701 (H.B. 5578)
Proposed MCL 780.766b (H.B. 5579)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

House Bills 5575, 5576, and 5577 (S-1) would have an indeterminate fiscal impact on State and local government. There are no data to indicate how many offenders would be convicted of the proposed offenses. To the extent that more offenders could be sentenced to prison or jail terms, State and local expenditures would increase. An offender convicted of a Class A offense under the bills would receive a sentencing guidelines minimum sentence range of 21-35 months to 270 months - life. An offender convicted of a Class B offense would receive a sentencing guidelines minimum sentence range of 0-18 months to 117-160 months, with a statutory maximum of 20 years. An offender convicted of a Class D offense would receive a sentencing guidelines minimum sentence range of 0-6 months to 43-76 months, with a statutory maximum of 10 years. Local governments would incur the costs of incarceration in local facilities, which vary by county. The State would incur the cost of felony probation at an annual average cost of \$2,000, as well as the cost of incarceration in

a State facility at an average annual cost of \$34,000. Additional penal fine revenue would benefit public libraries.

House Bill 5578 (H-1) would have an indeterminate impact on the State and local units of government depending on the value of forfeited property.

House Bill 5579 would have an indeterminate impact on the State and local units of government regarding enforcement.

Date Completed: 12-2-10

Fiscal Analyst: Bill Bowerman
Matthew Grabowski

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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.