

Legislative Analysis



VIDEO RECORDED WITNESS STATEMENTS: VULNERABLE ADULTS

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Senate Bill 454 (Substitute S-1)

Sponsor: Sen. Mike Nofs

House Committee: Families, Children, and Seniors

Senate Committee: Families, Seniors, and Human Services

Complete to 4-23-12

A SUMMARY OF SENATE BILL 454 AS PASSED BY THE SENATE 11-2-11

Section 2163a of the Revised Judicature Act deals with the procedures for using video recorded statements of witnesses in court cases related to child abuse and criminal sexual conduct against children, as well as other special arrangements. At present, the term "witness" in this section applies to a person under 16 years of age and a person older than that with a developmental disability. Senate Bill 454 would include "vulnerable adults" in the definition of "witness."

Under the bill, vulnerable adults would be treated as witnesses only for prosecutions and proceedings of an assaultive crime as that term is defined in the Section 9a of Chapter X of Code of Criminal Procedure and for certain specified crimes involving vulnerable adults under the Michigan Penal Code. The Penal Code crimes include home invasion; abuse of vulnerable adults; violations of the Adult Foster Care Facility Licensing Act or Public Health Code that are the proximate cause of the death of an vulnerable adult by an unlicensed facility that should have been licensed; violations by caregivers with authority over a vulnerable adult; embezzlement; and violation by a person in a relationship of trust with a vulnerable adult.

Currently, questioning of a witness must take into consideration the witness's developmental level. The bill would also require that the witness's *mental acuity* be considered.

The act specifies how to determine if special arrangements are necessary to protect the welfare of a witness. The bill would require that the *physical condition* of the witness also be taken into account.

Currently, video recording of witnesses must, among other things, be in accordance with the forensic interview protocol as required by the Child Protection Law. The bill would add, "or as otherwise provided by law."

The term "vulnerable adult" is taken from the definition of "adult" in Section 145m of the Michigan Penal Code. There, the term means one or more of the following:

(1) An individual age 18 or over who requires supervision or personal care or lacks the personal and social skills required to live independently, because of age, developmental disability, mental illness, or physical disability.

(2) An adult as defined in Section 3(1)(b) of the Adult Foster Care Facility Licensing Act (i.e., an individual under 18 placed in an adult foster care family home or an adult foster care small group home).

(3) An adult as defined in Section 11(b) of the Social Welfare Act (i.e., a vulnerable person 18 years of age or older who is suspected of being or is believed to be abused, neglected, or exploited).

MCL 600.2163a

FISCAL IMPACT:

The bill would have no significant fiscal impact on state or local government.

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