



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

BILL ANALYSIS



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

House Bills 5562 and 5563 (as passed by the House)
Sponsor: Representative Matt Lori (H.B. 5562)
Representative Joseph Graves (H.B. 5563)
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 6-4-12

CONTENT

House Bill 5562 would amend the Michigan Penal Code to do the following:

- Increase the penalties for first- and second-degree child abuse.
- Establish new penalties for first-, second-, and third-degree child abuse committed in the presence of another child.

House Bill 5563 would amend the Code of Criminal Procedure to revise the sentencing guidelines for first- and second-degree child abuse and include in the guidelines the penalties for first-, second-, and third-degree child abuse in the presence of another child, as proposed by House Bill 5562.

House Bill 5563 is tie-barred to House Bill 5562.

The changes proposed by House Bill 5562 would be named "Dominick's Law".

House Bill 5562**Penalty for First-Degree Child Abuse**

Under the Penal Code, a person is guilty of first-degree child abuse if he or she knowingly or intentionally causes serious physical or serious mental harm to a child. The offense is a felony punishable by up to 15 years' imprisonment.

Under the bill, first-degree child abuse would be punishable for life or any term of years.

("Child" means a person under 18 years of age who is not emancipated by operation of law.

"Serious physical harm" means any physical injury to a child that seriously impairs his or her health or physical well-being, including brain damage, a skull or bone fracture, subdural hemorrhage or hematoma, dislocation, sprain, internal injury, poisoning, burn or scald, or severe cut.

"Serious mental harm" means an injury to a child's mental condition or welfare that is not necessarily permanent but results in visibly demonstrable manifestations of a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.)

Penalties for Second-Degree Child Abuse

A person is guilty of second-degree child abuse if any of the following apply:

- His or her omission causes serious physical harm or serious mental harm to a child, or his or her reckless act causes serious physical harm or serious mental harm to a child.
- He or she knowingly or intentionally commits an act likely to cause serious physical or mental harm to a child, regardless of whether harm results.
- He or she knowingly or intentionally commits an act that is cruel to a child, regardless of whether harm results.

Second-degree child abuse is a felony punishable by up to four years' imprisonment.

Under the bill, second-degree child abuse would be punishable by up to 10 years' imprisonment for a first offense, and up to 20 years' imprisonment for a second or subsequent offense.

("Omission" means a willful failure to provide food, clothing, or shelter necessary for a child's welfare or willful abandonment of a child. "Cruel" means brutal, inhuman, sadistic, or that which torments.)

Child Abuse in the Presence of Another Child

Under the bill, a person who committed child abuse in the presence of a child other than the victim would be guilty of a felony punishable as shown in Table 1.

Table 1

Child Abuse Offense	Penalty
First-degree	Life or any term of years, but not less than 5 years
Second-degree	Up to 10 years
Second-degree (subsequent offense)	Up to 20 years
Third-degree	Up to 2 years

(Under the Penal Code, a person is guilty of third-degree child abuse if he or she knowingly or intentionally causes physical harm to a child or he or she knowingly or intentionally commits an act that, under the circumstances, poses an unreasonable risk of harm or injury to a child and the act results in physical harm to a child. The offense is punishable by up to two years' imprisonment. "Physical harm" means any injury to a child's physical condition.)

House Bill 5563

The bill would revise and add sentencing guidelines for the child abuse offenses described in House Bill 5562, as shown in Table 2.

Table 2

Child Abuse Offense	Felony Class & Category		Stat. Max. Sentence	
	Current	Proposed	Current	Proposed
First-degree	B-Person	A-Person	15 years	Life
Second-degree	F-Person	C-Person	4 years	10 years
Second-degree (subsequent offense)	N/A	B-Person	N/A	20 years
First-degree in presence of another child	N/A	A-Person	N/A	Life
Second-degree in presence of another child	N/A	D-Person	N/A	10 years
Second-degree in presence of another child (subsequent offense)	N/A	B-Person	N/A	20 years
Third-degree in presence of another child	N/A	G-Person	N/A	2 years

N/A = Not applicable

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. By raising the felony class of first- and second-degree child abuse from Class B to Class A and from Class F to Class C, respectively, and by increasing the maximum sentences to life and 10 years, respectively, (or 20 years for a repeat second-degree offense) the bills could result in increased incarceration costs for State and local governments. The increased incarceration costs would result both from more offenders being sentenced to imprisonment (as opposed to an alternative punishment such as probation) and from those imprisoned serving longer terms. Incarceration costs at State prisons average approximately \$34,000 per inmate per year, while costs in local jails vary by county.

Fiscal Analyst: Dan O'Connor