



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bills 866 and 867 (as introduced 3-12-14)

Sponsor: Senator Virgil Smith

Committee: Judiciary

Date Completed: 5-5-14

CONTENT

Senate Bill 866 would amend Chapter 20A (Vulnerable Adults) of the Michigan Penal Code to do the following:

- Prohibit and prescribe criminal penalties for willfully causing or inflicting unjustifiable physical pain or mental suffering on an elder adult.
- Prescribe criminal penalties for violating other provisions of law that prohibit theft, embezzlement, forgery, fraud, or identity theft with respect to the property or identifying information of an elder adult.
- Prescribe a criminal penalty for restraining an elder adult by the use of violence, menace, fraud, or deceit.

The bill also would change the heading of Chapter 20A to "Vulnerable Adults and Elder Adults".

Senate Bill 867 would amend the Code of Criminal Procedure to add the felonies proposed by Senate Bill 866 to the sentencing guidelines.

Senate Bill 867 is tie-barred to Senate Bill 866.

Senate Bill 866 would define "elder adult" as a person who is 65 years of age or older.

Senate Bill 866**Causing or Inflicting Pain or Suffering**

The bill would prohibit a person who knew or reasonably should have known that a another person was an elder adult from willfully causing or inflicting unjustifiable physical pain or mental suffering on the elder adult, under circumstances or conditions that were likely to produce great bodily harm or death. The offense would be a felony punishable as shown in Table 1.

Table 1

Result of Offense	Maximum Imprisonment	Maximum Fine
No great bodily harm suffered	4 years	\$5,000
Great bodily harm to victim under 70	7 years	N/A
Great bodily harm to victim 70 or older	9 years	N/A
Death of victim under 70	9 years	N/A
Death of victim 70 or older	11 years	N/A

A violation that occurred under circumstances or conditions other than those likely to produce great bodily harm or death would be a misdemeanor punishable by up to one year's imprisonment and/or a maximum fine of \$1,000.

Theft, Fraud, or Identity Theft

A person who violated any other provision of law proscribing theft, embezzlement, forgery, fraud, or identity theft with respect to the property or personal identifying information of an individual the person knew or should have known was an elder adult would be guilty of a crime punishable as shown in Table 2.

Table 2

Value of Property	Offense Level	Maximum Imprisonment	Maximum Fine
More than \$1,000	Felony	4 years	\$5,000
\$1,000 or less	Misdemeanor	1 years	\$1,000

Restraint of an Elder Adult

A person who restrained an elder adult by the use of violence, menace, fraud, or deceit would be guilty of a felony punishable by up to four years' imprisonment and/or a maximum fine of \$5,000.

The bill would define "restrains" as to restrict a person's movements or to confine the person so as to interfere with that person's liberty without his or her consent or without legal authority. The restraint would not have to exist for any particular length of time and could be related or incidental to the commission of other criminal acts.

Other Violations

The Penal Code section proposed by the bill would not prohibit a person from being charged with, convicted of, or punished for any other violation of law arising out of the same transaction as a violation of that section.

Senate Bill 867

The bill would include the felonies proposed by Senate Bill 866 in the sentencing guidelines, as shown in Table 3.

Table 3

Violation	Category & Class	Statutory Max. Sentence
Elder abuse likely to produce great bodily harm or death	Person-F	4 years
Elder abuse causing great bodily injury to victim under 70	Person-D	7 years
Elder abuse causing great bodily injury to victim 70 or older	Person-D	9 years
Elder abuse causing death to victim under 70	Person-D	9 years
Elder abuse causing death to victim 70 or older	Person-C	11 years
Violating other law involving elder adult's property valued over \$1,000	Person-F	4 years
Restraining elder adult by violence or fraud	Person-F	4 years

FISCAL IMPACT

The bills would create new felony penalties. The sentences for felony convictions would cost the State approximately \$35,000 per prisoner per year. The new felony penalties would have no direct fiscal impact on local government outside of the cost of any added prosecutions for the new offenses, and any increase in penal fine revenue for public libraries.

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