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Senate Bills 1156 and 1157 (as introduced 12-4-14)  
Sponsor: Senator Judy K. Emmons (S.B. 1156)  
Senator Tonya Schuitmaker (S.B. 1157)  
Committee: Judiciary

Date Completed: 12-8-14

### **CONTENT**

**Senate Bill 1156 would amend the Michigan Penal Code to prohibit and prescribe criminal penalties for the following:**

- **Committing, attempting, or threatening stalking, aggravated stalking, or an assaultive crime with the intent to coerce a pregnant female to have an abortion.**
- **Taking other coercive actions after being informed by a pregnant female that she did not want to obtain an abortion.**

**Senate Bill 1157 would amend the sentencing guidelines in the Code of Criminal Procedure to include coercing a female to have an abortion against her will.**

The bills would take effect 90 days after their enactment. Senate Bill 1157 is tie-barred to Senate Bill 1156.

### **Senate Bill 1156**

Under the bill, a person having actual knowledge that a female was pregnant would be prohibited from committing, attempting to commit, or threatening to commit stalking, aggravated stalking, or an assaultive crime against her or any other person with the intent to coerce the pregnant female to have an abortion against her will. A violation would be punishable in the same manner as prescribed for the underlying offense committed, attempted, or threatened.

("Threaten" would mean to make two or more statements or to engage in a course of conduct that would cause a reasonable person to believe that the individual is likely to act in accordance with the statements or the course of conduct. The term would not include constitutionally protected speech or any generalized statement regarding a lawful pregnancy option. "Course of conduct" would refer to a series of two or more separate noncontinuous acts evidencing a continuity of purpose.)

Also, under the bill, after being informed by a pregnant female that she did not want to obtain an abortion, a person would be prohibited from doing any of the following with the intent to coerce her to have an abortion against her will:

- **Discontinuing, attempting to discontinue, or threatening to discontinue support that the person had a legal responsibility to provide, or reducing that support to a level below his or her legal responsibility.**

- Withdrawing, attempting to withdraw, or threatening to withdraw from a contract or agreement or otherwise violating the terms of a contract or agreement, having previously entered into a contract or other legally binding agreement to which the pregnant female was a party or beneficiary.
- Discharging or threatening to discharge her from employment.

For purposes of this prohibition, information that a pregnant female did not want to obtain an abortion would include any statement or act, including inaction, that would clearly demonstrate to a reasonable person that she was unwilling to comply with a request or demand to have an abortion.

This offense would be a misdemeanor punishable by a maximum fine of \$5,000. If the offender were the father or putative father of the unborn child and at least 18 years old at the time of the violation, and the pregnant female were under 18 at the time, the maximum fine would be \$10,000. ("Unborn child" would mean a live human being in utero, regardless of gestational stage of development.)

The bill would not prohibit an offender from being charged with, convicted of, or punished for any other violation of law committed while violating the bill. The court could order a term of imprisonment imposed under the bill to be served consecutively to any other term of imprisonment imposed for a violation of law committed while violating the bill.

### **Senate Bill 1157**

Under the bill, coercing a female to have an abortion against her will (by stalking, aggravated stalking, or an assaultive crime) would be included in the sentencing guidelines as a felony against a person with a variable classification and a variable statutory maximum penalty. For such a violation, the sentencing court would have to determine the offense class, offense variable level, and prior record variable level based on the underlying offense.

Proposed MCL 750.213a (S.B. 1156)  
MCL 777.16l (S.B. 1157)

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bills would have an indeterminate fiscal impact on State and local government. If the coercion that would be prohibited under the bills were in the form of stalking or another assaultive crime, the violator would be punished according to the law that applies to that category of offense. Thus, the bills would be unlikely to result in any incarceration in addition to what would be allowed under current law, assuming that the violator was prosecuted for the underlying offense and the terms of imprisonment were concurrent (although consecutive sentencing would be allowed). Currently, for felony convictions, in the short term, the marginal cost to State government is approximately \$4,100 per additional prisoner per year. Over the long term, the marginal cost to State government is approximately \$31,100 per additional prisoner per year. To the extent that the underlying offenses would already be prosecuted, the costs to local courts and law enforcement would be unchanged. For violations of the proposed offense other than stalking and assault, the violator could be charged with a misdemeanor from which penal fine revenue of up to \$5,000 (or \$10,000 in some circumstances) would be dedicated to public libraries.

Fiscal Analyst: John Maxwell

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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.