



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

BILL



ANALYSIS

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

House Bill 5422 (as passed by the House)
Sponsor: Representative John Chirkun
House Committee: Criminal Justice
Senate Committee: Judiciary

Date Completed: 12-6-16

CONTENT

The bill would amend the Michigan Penal Code to include in fourth-degree vulnerable adult abuse an act that posed an unreasonable risk of harm or injury to a vulnerable adult, regardless of whether physical harm resulted.

The Penal Code provides that a caregiver or other person with authority over a vulnerable adult is guilty of fourth-degree vulnerable adult abuse if his or her reckless act or reckless failure to act causes physical harm to the vulnerable adult. A violation is a misdemeanor punishable by up to one year's imprisonment and/or a maximum fine of \$1,000.

Under the bill, a caregiver or other person with authority over a vulnerable adult also would be guilty of fourth-degree vulnerable adult abuse if he or she knowingly committed an act that, under the circumstances, posed an unreasonable risk of harm or injury to the vulnerable adult, regardless of whether physical harm resulted.

The Code defines "vulnerable adult" as one or more of the following:

- An individual at least 18 years of age who, because of age, developmental disability, mental illness, or physical disability, requires supervision or personal care or lacks the personal and social skill required to live independently.
- An adult as defined in the Adult Foster Care Facility Licensing Act (a person who is at least 18 and is placed in an adult foster care family home or an adult foster care small group home pursuant to that Act).
- An adult as defined in the Social Welfare Act for the purpose of provisions concerning an adult in need of protective services (a vulnerable person who is at least 18 who is suspected of being or believed to be abused, neglected, or exploited).

"Caregiver" means an individual who directly cares for or has physical custody of a vulnerable adult. "Other person with authority over a vulnerable adult" includes, but is not limited to, a person with authority over a vulnerable adult in that part of a hospital that is a hospital long-term care unit, but does not include a person with authority over a vulnerable adult in that part of a hospital that is not a hospital long-term care unit.

"Physical harm" means any injury to a vulnerable adult's physical condition.

The bill would take effect 90 days after its enactment.

MCL 750.145n

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill could have a positive fiscal impact on the State and an indeterminate fiscal impact on local government. Expanding the elements constituting fourth-degree vulnerable adult abuse to include cases in which the victim did not actually suffer physical harm could lead to more individuals being charged with and convicted of a misdemeanor under the statute. It also is possible that individuals who would otherwise be charged under the felony provisions of first- or second-degree vulnerable adult abuse instead would be charged with a misdemeanor, if the prosecutor considered that charge more appropriate.

An increase in misdemeanor arrests and prosecutions could increase resource demands on law enforcement, court systems, community supervision, and jails. Any increased fine revenue would be dedicated to public libraries.

Fewer felony arrests and convictions could decrease resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. The average cost to State government for felony probation supervision is approximately \$3,024 per probationer per year. For any decrease in prison intakes, in the short term, the marginal savings to State government would be approximately \$3,764 per prisoner per year. Any associated decrease in fine revenue would reduce funding to public libraries.

Fiscal Analyst: Ryan Bergan