

ABORTION: PROHIBIT INTENTIONAL COERCION

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House Bill 4787 as introduced
Sponsor: Rep. Amanda Price

Analysis available at
<http://www.legislature.mi.gov>

House Bill 4830 as introduced
Sponsor: Rep. Nancy E. Jenkins

Committee: Criminal Justice
Complete to 3-23-16

SUMMARY:

House Bill 4787 would make it a criminal offense to intentionally coerce a pregnant woman to have an abortion against her will, create penalties, and define terms. House Bill 4830 would include the felony provision under House Bill 4787 in the sentencing guidelines. The bills would take effect 90 days after enactment.

Specifically, the bills would do the following:

House Bill 4787 adds a new section to the Michigan Penal Code (MCL 750.213a, proposed). A person who has actual knowledge that a female is pregnant would be prohibited from doing any of the following with the intent to coerce the woman to have an abortion against her will:

- ❖ Commit, attempt to commit, or threaten to commit any of the following violations against her or any other person:
 - Stalking or aggravated stalking.
 - An assaultive crime, as defined in Chapter X of the Code of Criminal Procedure, MCL 770.9a. ("Assaultive crime" is an offense against a person and includes, but is not limited to, the following: felonious assault; assault with intent to maim, do great bodily harm, or commit murder; assault with intent to rob and steal, either armed or unarmed; certain crimes against a pregnant woman intending to cause a miscarriage or stillbirth, death to the embryo or fetus, or great bodily harm to the embryo or fetus; murder or attempted murder; manslaughter; kidnapping; taking or carrying or enticing away a child under 14 years of age; certain stalking offenses; criminal sexual conduct offenses; carjacking; and terrorism.)

- ❖ After being informed by a pregnant female that she does not want to obtain an abortion, do any of the following:
 - Discontinue, or attempt or threaten to discontinue, support that the person has a legal responsibility to provide or reduce that support to a level below his or her legal responsibility.

- Having previously entered into a contract or other legally binding agreement to which the pregnant female is a party or beneficiary, withdraw, or attempt or threaten to withdraw, from a contract or agreement or otherwise violate the terms of that contract or agreement.
- Discharge or threaten to discharge her from employment.
- Engage in coercion as defined by Section 462a of Chapter LXVIIA, "Human Trafficking."

Information (or being informed) that a pregnant female does not want to obtain an abortion includes any statement or act, including *inaction*, that would clearly demonstrate to a reasonable person that she is unwilling to comply with a request or demand to have an abortion.

Penalty. A person who committed a stalking offense or an assaultive crime in order to coerce a pregnant female to obtain an abortion against her will would be guilty of a crime punishable in the same manner as for the underlying offense committed, attempted, or threatened. (For example, a person who stalked a pregnant woman in order to coerce her into obtaining an abortion against her will would receive the same punishment as for stalking.)

The penalty for withdrawing support, discharging from unemployment, or engaging in coercion related to human trafficking, etc., would be a misdemeanor punishable by a fine of not more than \$5,000. If the person is the father or putative father of the unborn child and is 18 years of age or older at the time of the violation, and the pregnant female is less than 18 years of age, the person would be guilty of a misdemeanor punishable by a fine of not more than \$10,000.

In addition, the person could be charged with, convicted of, or punished for any other violation of law committed while violating the provisions of the bill. A term of imprisonment imposed for violating the bill's provisions could be ordered by the court to be served consecutively to (following) any other term of imprisonment imposed for a violation of law committed while violating the bill's provisions.

Definitions: "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 pregnant option.

"Course of conduct" would mean a pattern of conduct composed of a series of two or more separate noncontinuous acts evidencing a continuity of purpose.

"Unborn child" would mean a live human being in utero regardless of the gestational stage of development.

House Bill 4830 amends the Code of Criminal Procedure to place the felony penalties for a violation of House Bill 4787 within the sentencing guidelines. The bill specifies that coercing a female to have an abortion against her will would have a variable statutory maximum term of imprisonment. The bill is tie-barred to House Bill 4787, meaning that it will not become law unless House Bill 4787 is also enacted.

FISCAL IMPACT:

House Bill 4787 would increase costs on state and local correctional systems. Information is not available on the number of persons that might be convicted under the provisions of the bill. New felony convictions would result in increased costs related to state prisons and state probation supervision. The average cost of prison incarceration in a state facility is roughly \$35,300 per prisoner per year, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision average about \$3,600 per supervised offender per year. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

The bill would increase costs on the judiciary and local court funding units. The fiscal impact would depend on how the provisions of the bill affected caseloads and related administrative costs.

House Bill 4830 would not have any direct fiscal implications for state or local units of government.

BACKGROUND INFORMATION:

The bills are reintroductions of House Bills 4798 and 4799 of the 2011-2012 legislative session. The bills passed both chambers, but were not ordered enrolled.

POSITIONS:

A representative of the Justice Foundation testified in support of the bills. (9-22-15)

Representatives of Right to Life of Michigan testified in support of the bills. (9-22 & 9-29-15)

A representative of the New Life Center testified in support of the bills. (9-22-15)

The Michigan Department of Attorney General indicated support for the bills. (9-22-15)

The Michigan Catholic Conference indicated support for the bills. (9-22 & 9-29-15)

A representative of ACLU Michigan testified in opposition to the bills. (9-22-15)

A representative of the Michigan NOW testified in opposition to the bills. (9-22-15)

A representative of the American Association of University Women of Michigan testified in opposition to the bills. (9-22-15)

A representative of the Michigan Unitarian Universalist Social Justice Network testified in opposition to the bills. (9-22-15)

Planned Parenthood Advocates of Michigan offered written testimony in opposition to the bills. (9-22-15)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.