

Legislative Analysis



IMMUNITY FOR LAW ENFORCEMENT FOR PROSTITUTION-RELATED OFFENSES: EXCEPTION

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4355 as introduced
Sponsor: Rep. Gary Glenn

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

Senate Bill 275 as passed by the Senate
Sponsor: Sen. Judy K. Emmons

Committee: Law and Justice
Complete to 5-22-17

SUMMARY:

The bills, which are identical, say that the immunity currently provided to a law enforcement officer from prosecution for certain prostitution-related offenses while in the performance of duties as a law enforcement officer only applies if the officer does not engage in sexual penetration. The bill would take effect 90 days after enactment.

Specifically, House Bill 4355 and Senate Bill 275 would amend the Michigan Penal Code (MCL 750.451a) to specify that Sections 448, 449, 449a, 451, *and 459*, which prohibit conduct relating to prostitution, do not apply to a law enforcement officer while in the performance of *the officer's* duties as a law enforcement officer, *unless the officer engages in sexual penetration in the course of his or her duties*. Italicized and underlined text denotes language added by the bills.

In general, Section 448 prohibits soliciting, accosting, or inviting a person to commit prostitution.

Section 449 prohibits a person from admitting another person into a place (including a vehicle) for the purpose of prostitution.

Section 449a prohibits a person engaging the services of another for the purpose of prostitution or lewdness for money or other consideration (the penalty is higher if the person being engaged is less than 18 years of age).

Section 451 contains the penalties for violations of Sections 448, 449, and 449a and provides for enhanced penalties for repeat violations as well as a presumption that in the prosecution of a person less than 18 years of age, the violation may be a result of human trafficking.

Section 459 specifies that it is a 20-year felony to knowingly transport or aid in the transport of any person for the purpose of prostitution, or to knowingly sell travel services that include or facilitate travel for the purpose of engaging in prostitution or an act that would constitute a violation of Chapter LXVIIA (Human Trafficking).

FISCAL IMPACT:

If the bills resulted in law enforcement officers losing immunity and being charged with prostitution-related offenses, costs to state and local correctional systems would be increased, based on the number of additional convictions and incarcerations. New felony convictions would result in increased costs related to state prisons, county jails, and/or state probation supervision. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision.

The average cost of prison incarceration in a state facility is roughly \$36,000 per prisoner per year, a figure that includes various fixed administrative and operational costs. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. State costs for parole and felony probation supervision average about \$3,500 per supervised offender per year. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

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.