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House Bill 4674 (Substitute H-3 as passed by the House)  
House Bill 4675 (Substitute H-2 as passed by the House)  
Sponsor: Representative Bronna Kahle (H.B. 4674)  
Representative Bradley Slagh (H.B. 4675)  
House Committee: Rules and Competitiveness  
Senate Committee: Judiciary and Public Safety

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## **INTRODUCTION**

House Bill 4674 (H-3) and 4675 (H-2), taken together, would amend the crime victim's compensation Act to modify the list of individuals eligible for an award, increase various award thresholds, and to extend the time period in which a claimant must file a claim, among other things. The bills would have an indeterminate negative fiscal impact on State government and likely no significant fiscal impact on local units of government.

## **CONTENT**

**House Bill 4674 (H-3)** would amend the crime victim's compensation Act to do the following:

- **Modify the list of individuals eligible for an award under the Act.**
- **Modify the threshold for making a claim for lost earnings or support.**
- **Increase, from \$500 to \$4,000, the maximum emergency award allowed under the Act.**
- **Increase, from \$25,000 to \$45,000, the maximum aggregate award allowed under the Act per claimant.**
- **Prescribe certain requirements for an award for out-of-pocket loss.**
- **Modify provisions governing the amount of an award for lost earnings or support.**
- **Increase, from \$5,000 to \$8,000, the maximum award that could be made for funeral expenses.**
- **Delete provisions requiring the Crime Victims Services Commission to deny an award if it determined that a claimant will not suffer serious financial hardship as a result of the loss of earnings or support and the out-of-pocket expenses incurred as a result of the injury if he or she is not granted financial assistance.**

**House Bill 4675 (H-2)** would amend the Act to do the following:

- **Extend the time period in which a claimant must file a claim.**
- **Allow a claim to be filed by electronic means authorized by the Commission, if applicable.**
- **Delete certain notification requirements.**
- **Allow the Commission to inquire with the proper law enforcement authorities as part of an investigation of a claim filed with the Commission.**

- **Modify provisions requiring the Commission to not grant an award unless an investigation of the claim verifies certain facts.**
- **Modify provisions prescribing how an award must be paid.**

Each bill would take effect 450 days after its enactment and would apply to claims submitted on or after its effective date.

### **House Bill 4674 (H-3)**

#### Definitions

The Act defines "crime" as an act that is one of the following:

- A crime under the laws of Michigan or the United States that causes an injury within Michigan.
- An act committed in another state that if committed in Michigan would constitute a crime under the laws of Michigan or the US, that causes an injury within Michigan or that causes an injury to a Michigan resident within a state that does not have a victim compensation program eligible for funding from the Victims of Crime Act.
- An act of international terrorism as defined in 18 USC 2331, committed outside the territorial jurisdiction of the US that causes an injury to a Michigan resident.

Under the bill, the term, instead, would mean an act that is one of the following:

- A crime committed under the laws of Michigan, the US, or a Federally recognized tribe in Michigan that causes actual bodily harm, including pregnancy or death, or that poses a reasonably perceived or actual threat of injury or death within Michigan.
- An act committed in another state that if committed in the State would constitute a crime under the laws of Michigan, the US, or a Federally recognized tribe in Michigan, that causes actual bodily harm, including pregnancy or death, or that poses a reasonably perceived or actual threat of injury or death within Michigan or that causes actual bodily harm, including pregnancy or death, to a Michigan resident or that poses a reasonably perceived or actual threat of injury or death to a Michigan resident within a state that does not have a victim compensation program eligible for funding from the Federal Victims of Crime Act.
- An act of international terrorism as that term is defined in 18 USC 2331, committed outside the territorial jurisdiction of the US that causes actual bodily harm, including pregnancy or death, to a Michigan resident or that poses a reasonably perceived or actual threat of injury or death.

(Under 18 USC 2331, "international terrorism" means activities that a) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the US or of any state, or that would be a criminal violation if committed within the jurisdiction of the US or of any state; b) appear to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by mass destruction, assassination, or kidnapping; and c) occur primarily outside the territorial jurisdiction of the US, or transcend national boundaries in terms of the means by which they are accomplished, the people they appear intended to intimidate or coerce, or the local in which their perpetrators operate or seek asylum.)

The Act defines "intervenor" as a person who goes to the aid of one who has become a victim of a crime and who suffers personal physical injury. "Victim" means a person who suffers a

personal physical injury as a direct result of a crime. The bill would delete "physical" from the definitions of intervenor and victim.

Under the Act, "personal physical injury" means actual bodily harm and includes pregnancy. The bill would delete this definition. Instead, under the bill, "personal injury" would mean either of the following injuries:

- Actual bodily harm, including pregnancy or death.
- Psychological, mental, or emotional injury resulting from a reasonably perceived or actual threat of injury or death.

The bill would define "dependent" as an individual principally dependent on another for support.

"Victim services organization" would mean an organization or agency that has a documented history of providing services to address issues arising from victimization to victims or to family members or household members of victims.

The bill would delete the definitions of "out-of-pocket loss" and "replacement services".

#### Eligibility for Awards

Generally, the Act allows specified individuals to be paid for out-of-pocket expenses, such as medical costs, lost earnings, funeral expenses, or psychological counseling, and lost earnings sustained as a result of a crime.

Section 4 of the Act specifies that the following people are eligible for awards under the Act:

- A victim or an intervenor of a crime.
- A surviving spouse, parent, grandparent, child, sibling, or grandchild of a victim of a crime who died as a direct result of the crime.
- A surviving person related to the victim by blood or affinity, a guardian, personal representative, or member of the same household as the victim.
- A health care provider seeking payment under Section 5a.

(Under Section 5a, a health care provider is eligible to be paid for certain sexual assault medical forensic examinations.)

A person is not eligible to receive an award if he or she is criminally responsible for the crime or an accomplice to the crime. (This would remain the same under the bill.)

Instead, under the bill, except as otherwise provided, the following individuals would be eligible for awards:

- Under Section 4(1)(a), a victim or an intervenor of a crime.
- Under Section 4(1)(b), any of the following individuals: a) an individual who was related to a victim or intervenor by blood or affinity to the second degree, including a child born after the victim's or intervenor's death; b) an individual who was in a dating relationship with the victim or intervenor at the time of the crime; c) an adult who was physically or mentally incapacitated, if the victim or intervenor were a guardian of or a primary caregiver to the adult; d) a minor, if the victim or intervenor were a guardian or primary caregiver to the minor; e) the guardian of or primary caregiver to a victim or intervenor, if the victim or intervenor were a minor or was an adult who was physically or mentally

- incapacitated and a dependent; and f) an individual who was a guardian of or primary caregiver to a victim or intervenor when the victim or intervenor was a minor.
- Under Section 4(1)(c), an individual who legally assumed the obligation or voluntarily paid funeral or burial expenses of a victim who died as a result of a crime.
  - Under Section 4(1)(d), a health care provider seeking payment under Section 5a.
  - Under Section 4(1)(e), an individual who was a household member at the time the crime occurred.
  - Under Section 4(1)(f) an individual who was a household member before the time the crime occurred for a period of at least two years and who was related to the victim or intervenor by blood or affinity.
  - Under Section 4(1)(g), a dependent who suffered loss of support as a result of the death of a victim or intervenor who died as a result of the crime.

"Dating relationship" would mean frequent, intimate associations primarily characterized by the expectation of affectional involvement. The term does not include a casual relationship or an ordinary fraternization between two individuals in a business or social context.

"Household member" would mean an individual who resides in the same dwelling unit as a victim or intervenor.

Under the Act, an award may not be made on a claim unless the claimant has incurred an out-of-pocket loss of at least \$200, or has lost at least two continuous weeks' earnings or support, but the Commission may waive these limitations if a claimant is required by reason of age or disability. The bill would decrease, from two continuous weeks to five days, the threshold for a claim for earnings or support.

The bill would allow the Commission to require an individual to provide verification or proof of permanent residence to demonstrate he or she was eligible for an award under Section 4(1)(e) or (f), including a lease agreement, utility bill, license registration, document showing the mailing address, pay stub, tax form, or notarized statement.

#### Emergency Award

Under the Act, if it appears that a claim is one with respect to which an award probably will be made and undue hardship will result to the claimant if immediate payment is not made, the Commission may make an emergency award to the claimant pending a final decision in the case. The amount of an emergency award may not exceed \$500 and must be deducted from the final award made to the claimant. The excess of the amount of an emergency award over the amount of the final award, if any, must be repaid by the claimant to the Commission.

The bill would increase the maximum emergency award allowed under the Act to \$4,000.

Also, the Commission would have to provide a procedure for a claimant to request an emergency award. Promptly after receiving an application or request for an emergency award, the Commission would have to determine whether to grant an emergency award. If the Commission determined to grant an emergency award, the award would have to be issued to the claimant promptly.

#### Amount of Award

Out-of-Pocket Losses. The Act specifies that, except for a claim under Section 5a, an award made under the Act must be an amount not more than an out-of-pocket loss, including indebtedness reasonably incurred for medical or other services necessary as a result of the

injury upon which the claim is based, together with loss of earnings or support resulting from the injury. The aggregate award under the Act may not exceed \$25,000.00 per claimant.

The bill would increase the maximum aggregate award allowed under the Act to \$45,000 per claimant.

Unless reduced under the Act, an award made for an out-of-pocket loss would have to be in an amount equal to unreimbursed and unreimbursable expenses or indebtedness related to the crime and reasonably incurred for any of the following:

- Medical care for the victim or intervenor.
- Psychological or grief counseling for an individual eligible for an award under the bill, except for a health care provider seeking payment under Section 5a.
- Reasonable expenses for temporary or permanent relocation for an individual listed in Section 4(1)(a) or (e), or if the victim were deceased, for an individual listed in Section 4(1)(b), (e), or (f).
- Replacement services for homemaking tasks, child care, and other services previously performed by an individual listed in Section 4(1)(a), (b), (e), or (f), that, because of the victim's injury, or the claimant's attendance at a victim services organization to receive services related to the crime, would have to be performed temporarily or permanently by another person.
- Transportation expenses for the purpose of an individual listed in Section 4(1)(a), or if the victim or intervenor were deceased, for a person listed in Section 4(1)(b), (e), or (f), to access services from a victim services organization, medical care, or mental health care, or to attend the funeral of a victim or intervenor.
- Reasonable costs up to \$1,000 per residence for installing, increasing, or replacing residential security, which could include installing a home security device or system; replacing or repairing windows or locks; or increasing the number of locks, at either the residence of the victim or an intervenor of the crime or, if the crime scene were located at the residence of an individual listed in Section 4(1)(b), (e), or (f), at that residence.
- Accessibility or rehabilitative equipment or devices for either of the following: a) for equipment or devices that a victim or intervenor needed because of an injury caused by the crime, including modifications necessary to make a residence or vehicle accessible for a victim or intervenor or b) replacement equipment or devices that a victim or intervenor needed because the equipment or device was damaged in the course of a crime.
- Nonmedical remedial treatment rendered to the victim or intervenor in accordance with a recognized religious method of healing.
- If the crime scene were located at the residence of, or a motor vehicle owned or leased by, an individual listed in Section 4(1)(a), (b), (e), or (f), the crime scene cleanup services resulting from a crime for that residence or vehicle after crime scene cleanup was permitted by the investigating law enforcement agency, in a maximum amount of \$5,000 per crime scene.
- Replacement costs up to \$250 for clothing or bedding of an individual listed in Section 4(1)(a), (b), (e), or (f), that was held as evidence of a crime.
- Funeral expenses.
- Other services necessary for the victim or intervenor.

"Other services necessary" would mean recognized medical treatment, convalescent aids, supplies, and other equipment needed by the victim because of physical incapacity sustained as a direct result of the crime.

An award for reasonable expenses for temporary or permanent relocation could be made only if the claimant were relocating to protect his or her physical safety or emotional or financial well-being as a result of the crime and, unless good cause was shown, was relocating within

one year of the date the crime occurred, or of the date the claimant was threatened by a change in circumstance or by an indicator of danger. An award for expenses could not exceed \$3,800 per claimant. Eligible relocation expenses would include all of the following:

- Moving expenses, including costs to rent a truck, travel, and for moving services.
- Costs for temporary lodging for up to 30 days.
- The first month of rent, a security deposit, and the costs to start utilities in the dwelling unit to which the claimant relocated.

The Commission could require the claimant to provide a signed rental agreement to verify these expenses.

An award for transportation expenses could not exceed the following aggregate amounts per claimant:

- \$1,000, if the expense were for travel of a distance of up to 50 miles each way from the claimant's residence.
- \$5,000, if the expense were for travel that met one or more of the following: a) if the travel were a distance of up to 50 miles from the claimant's residence each way and was to and from a health care provider, mental health professional as that term is defined in the Mental Health Code, or health facility or agency that rendered a specific treatment or care that was not available within 50 miles of the claimant's residence or b) if the travel were a distance of not less than 50 miles from the claimant's residence each way and was to and from a funeral for a deceased victim or intervenor.

(Under the Mental Health Code, "mental health professional" means an individual who is trained and experienced in the area of mental illness or developmental disabilities and who is one of the following:

- A physician.
- A psychologist.
- A registered professional nurse.
- A licensed master's social worker.
- A licensed professional counselor.
- A marriage and family therapist.)

Loss of Earning or Support. The Act specifies that unless reduced under the Act, an award made for loss of earnings or support must be in an amount equal to the actual loss sustained. An award may not exceed \$350 for each week of lost earnings or support. Instead, under the bill, unless reduced under the Act, an award for loss of support would have to be in an amount equal to the actual loss sustained. An award could not exceed \$1,000 for each week of lost support.

Also, under the bill, unless reduced under the Act, an award made for loss of earnings would have to be in an amount equal to the actual loss sustained. An award could not exceed \$1,000 for each week of lost earnings. A claimant could be awarded for loss of earnings for lost wages as a result of the crime, including in the following circumstances:

- A victim or intervenor, the parent, guardian, or primary caregiver of a victim or intervenor, or if the victim or intervenor is deceased, a claimant who was listed in Section 4(1)(b) or (e), for not attending work due to any of the following: a) seeking medical attention for or recovery from an injury caused by the crime.; b) obtaining psychological counseling or obtaining services from a victim services organization; or c) providing care or assistance

to a victim or claimant in recovering from injuries caused by the crime or in obtaining psychological counseling or services from a victim services organization.

- If the victim or intervenor were deceased and a claimant was listed in Section 4(1)(b), (e), or (f), wage loss for bereavement leave to attend the funeral or alternative to a funeral of the deceased victim or intervenor, to make arrangements necessitated by the death of the deceased victim or intervenor, or for a period of grieving the death of the deceased victim or intervenor, up to \$2,000, if the claimant were listed in Section 4(1)(b) or (e), or up to \$1,000, if the claimant were listed in Section 4(1)(f).

Funeral Expenses. The Act prohibits an award made for funeral expenses, including burial expenses, from exceeding \$5,000 for each victim. An award for funeral expenses may not exceed an additional \$500 for each of the following services:

- Grief counseling for the victim's spouse, children, parents, siblings, grandparents, and grandchildren.
- Crime scene cleanup services after crime scene cleanup is permitted by the investigating law enforcement agency, if the crime scene is located at the residence of the victim or of a person eligible for an award under Section 4(1)(b).

Instead, under the bill, unless reduced under the Act, an award made for funeral expenses would have to be in an amount equal to unreimbursed and unreimbursable expenses or indebtedness incurred for burial expenses, transporting the victim's body, and other costs for the funeral service or alternative to funeral service, and could not exceed \$8,000 for each victim. An award for funeral expenses could not exceed an additional \$500 for a grave marker for each victim.

Psychological or Grief Counseling. Under the Act, an award for psychological counseling may not exceed 35 hourly sessions per victim or intervenor. The award may include up to eight family sessions that include any of the victim's or intervenor's spouse, children, parents, or siblings who are not criminally responsible for or an accomplice to the crime. The maximum hourly reimbursement rate may not exceed \$80 per hourly session for a therapist or counselor licensed or registered to practice in Michigan, except that the maximum hourly reimbursement rate may not exceed \$125 per hourly session for a psychologist or physician licensed to practice in Michigan.

The bill instead specifies that, an award for psychological or grief counseling could not exceed 35 hourly sessions per individual listed in Section 4(1)(a), (b), (c), (e), (f), or (g) who required psychological counseling as a result of the crime or grief counseling in connection with the death of the victim or intervenor. The award could include up to 20 family sessions that included an individual who was not criminally responsible for or an accomplice to the crime, and who was related to the victim or intervenor by blood or affinity to the second degree, the guardian or primary caregiver of a minor victim, or an individual listed in Section 4(1)(e). The bill would retain the maximum hourly rates currently prescribed in the Act.

#### Reduction of an Award

The Act requires an award to be reduced by the amount of one or more of the following payments received or to be received as a result of the injury:

- From or on behalf of the person who committed the crime.
- From insurance, but not including disability or death benefits paid or to be paid to a peace officer or a corrections officer on account of injuries sustained in the course of employment.

- From public funds, but not including disability or death benefits paid or to be paid to a peace officer or a corrections officer on account of injuries sustained in the course of employment.
- From an emergency award.

In making a determination on a claim filed by a person, except for a health care provider seeking payment under Section 5a, the Commission must determine whether the victim's misconduct contributed to his or her injury and must reduce the amount of the award or reject the claim altogether. Under the bill, this provision would apply to a claim filed by an individual listed in Section 4(1)(a), (b), (c), (e), (f), or (g).

The Act specifies that, except for a claim under Section 5a, if the Commission finds that the claimant will not suffer serious financial hardship as a result of the loss of earnings or support and the out-of-pocket expenses incurred as a result of the injury if he or she is not granted financial assistance, the Commission must deny the award. In determining the serious financial hardship, the Commission must consider all of the financial resources of the claimant. The bill would delete these provisions.

Under the bill, if a claimant received a payment from the person who committed the crime, from insurance, or from public funds, as indicated above, for an expense for which the claimant received an award, the claimant would have to reimburse the Commission to the extent the total amount he or she received exceeded the actual loss he or she experienced for that expense.

#### Applicability

The bill would apply claims submitted on or after the bill's effective date.

### **House Bill 4675 (H-2)**

#### Filing a Claim

Under the Act, a claim may be filed by the person eligible to receive an award or, if the person is a minor, by his or her parent or guardian. The bill also would allow a claim to be filed by a personal representative of the person eligible to receive an award.

The Act requires, except as otherwise provided, a claimant to file a claim within one year after the crime upon which the claim is based occurred, except as follows:

- If police records show that a victim of first-, second-, or third-degree criminal sexual conduct (CSC) was less than 18 years of age at the time the crime occurred and that the victim reported the crime before attaining 19 years of age, a claim based on that crime may be filed by a person eligible to claim an award under the Act, except for a health care provider seeking payment under Section 5a, within one year after the crime was reported.
- A claim may be filed within one year after the discovery by a law enforcement agency that injuries previously determined to be accidental, of unknown origin, or resulting from natural causes, were incurred as a result of the crime.

Instead under the bill, except as otherwise provided, a claimant would have to file a claim within *five* years after the crime upon which the claim was based occurred, except as follows:

- If either of the following applied, a claim based on first-, second-, or third-degree CSC could be filed by a claimant within five years after it was reported: a) police records showed the victim of the crime was less than 18 years of age at the time the crime



occurred and the victim reported the crime before attaining 28 years of age or b) police records showed the victim of the crime was less than 18 years of age at the time the crime occurred, the victim reported the crime before attaining 28 years of age, and the claimant showed that there was good cause for the delay in reporting the crime.

- A claim could be filed within *five* years after the discovery by a law enforcement agency that injuries previously determined to be accidental, of unknown origin, or resulting from natural causes, were incurred as a result of the crime.

The bill would require an application for an award under the Act to be made on a form approved by the Commission.

The Act requires a claim to be filed in the Commission's office in person or by mail. Under the bill, a claim also could be filed by electronic means authorized by the Commission, if available.

The Act requires the Commission to accept for filing a claim that is submitted by a person who is eligible, and which alleges the jurisdictional requirements set forth in the Act, and meets the requirements as to form as approved by the Commission. Under the bill, if the Commission received sufficient documentation to make a determination on whether to grant an award for at least one expense or loss submitted as part of a claim, the Commission would have to promptly make a determination on whether to grant an award for each expense or loss for which it had received sufficient documentation to make that determination. The Commission could not require as a condition of making a determination or award that a claimant submit sufficient documentation for all losses and expenses that would be submitted as part of a claim. After receiving sufficient documentation for any additional eligible expense or loss that was part of a claim, the Commission would have to make a determination regarding that expense or loss.

Upon filing of a claim by a person eligible for an award under the Act, except for a health care provider seeking payment under Section 5a, the Commission must promptly notify the prosecuting attorney of the county in which the crime is alleged to have occurred. If, within 20 days after the notification, the prosecuting attorney advises the Commission that a criminal prosecution is pending upon the same alleged crime and requests that action by the Commission be deferred, the Commission must defer the proceedings until the criminal prosecution is concluded. When the criminal prosecution is concluded, the prosecuting attorney must notify the Commission promptly. These provisions do not prohibit the Commission from granting emergency awards or from paying a health care provider under Section 5a. The bill would delete these provisions.

The bill would allow the Commission to inquire with the proper law enforcement authorities, including the prosecuting attorney of the county in which the crime was alleged to have occurred, as part of an investigation of a claim filed with the Commission.

#### Verification of Facts

Under the Act, the Commission may not grant an award unless the investigation of the claim verifies the following facts:

- A crime was committed.
- The crime directly resulted in personal physical injury to, or death of, the victim.
- That the crime did not occur while the victim was confined in a Federal, State, or local correctional facility.
- Police records show that the crime was promptly reported to the proper authorities.

An award may not be made if the police records show that the report was made more than 48 hours after the occurrence of the crime unless any of the following circumstances apply:

- The crime was CSC committed against a victim who was less than 18 years of age at the time of the occurrence and the crime was reported before the victim attained 19 years of age.
- The Commission, for good cause shown, finds the delay was justified.
- The Commission is making a payment under Section 5a.

Instead, under the bill, the Commission could not grant an award unless the investigation of the claim verified the following facts:

- A crime was committed.
- The crime directly resulted in injury to the victim or intervenor.
- Police records showed that the crime was promptly reported to the proper authorities.
- That the crime did not occur while the victim was confined in a Federal, State, or local correctional facility.

#### Payment of Award

The Act requires that an award be paid in a lump sum, except that in the case of death or protracted disability, the Commission may specify that the award must provide for periodic payments to compensate for loss of earnings or support. An award made pursuant to the Act may not be subject to execution or attachment other than for expenses resulting from the injury that is the basis for the claim.

Instead, under the bill, an award for each covered expense or loss would have to be paid in a lump sum, except that for payments to health care providers under Section 5a or in the case of death or protracted disability, the Commission could specify that the award would have to provide for periodic payments to compensate for out-of-pocket expenses, or loss of earnings or support.

#### Applicability

The bill would apply claims submitted on or after the bill's effective date.

MCL 18.351 et al. (H.B. 4674)  
18.355 et al. (H.B. 4675)

Legislative Analyst: Stephen Jackson

#### **FISCAL IMPACT**

The bills would have an indeterminate negative fiscal impact on State government and likely no significant fiscal impact on local units of government.

House Bill 4674 (H-3) would expand the categories of individuals who would be eligible for compensation in the event of a crime. It also would revise the definitions of crime and personal physical injury to include a larger number of acts not included under current law and specify a greater number of expenses eligible as out-of-pocket losses. These changes would make an unknown number of individuals newly eligible to claim compensation from the Crime Victim's Rights Fund. In addition, the bill would increase the aggregate award amount limit from \$25,000 to \$45,000.

House Bill 4675 (H-2) also likely would result in an increase in the number of possible claimants as a result of the proposed expansion of the time period following a crime during

which individuals could file a claim. It also would remove a requirement that the Crime Victim Services Commission delay awards until a criminal prosecution was included.

The bills could result in increased operational and administrative costs for the Commission if claims increased substantially. Some activity required under the bill, such as the creation of a filing form, likely would be covered by existing appropriations.

The overall fiscal impact of the bills would depend on the number of individuals who filed claims with the Commission and the award amounts the Commission deemed appropriate. In fiscal year 2020-21, revenue to the Crime Victim's Services Fund totaled \$13.6 million while expenditures equaled \$21.9 million, with an ending fund balance of \$18.6 million.

Fiscal Analyst: Elizabeth Raczkowski

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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.