

OBTAINING A CONTROLLED SUBSTANCE OR PRESCRIPTION THROUGH DECEPTION

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

House Bills 6026 & 6027

Sponsor: Rep. Andy Neumann

Committee: Health Policy

Complete to 9-27-10

A SUMMARY OF HOUSE BILLS 6026 & 6027 AS INTRODUCED 4-13-10

House Bill 6026 would amend the Public Health Code to make it a crime for an individual to obtain a controlled substance or a prescription for a controlled substance by falsely, and with intent to deceive, informing a health care provider that he or she had not obtained any controlled substance or prescription from that provider or any other health care provider within the previous 30 days. (The bill would also apply to attempts to do so.)

A violation would be a misdemeanor punishable by not up to 90 days' imprisonment and/or a fine of up to \$500. However, a violation would be a felony if the individual was using benefits under Medicare or Medicaid. The penalty then would be imprisonment up to four years and/or a fine of up to \$5,000.

House Bill 6027 would amend the Code of Criminal Procedure to put the felony penalties in the sentencing guideline provisions.

House Bill 6026 would also specify that the following privileges do not apply in the cases of obtaining controlled substances or prescriptions by deception: (1) the physician-patient privilege; (2) the dentist-patient privilege; and (3) any other health professional-patient privilege created or recognized by law.

An individual who in good faith provides access to medical records or information in these cases would be immune from civil or administrative liability arising from that conduct, unless the conduct was gross negligence or willful and wanton misconduct.

MCL 333.7403a (HB 6026); MCL 777.13m (HB 6027)

FISCAL IMPACT:

The bills would have an indeterminate fiscal impact on state and local correctional systems. There are no data to indicate how many offenders would be convicted under the affected provisions of current law. To the extent that violators were sentenced to prison, the average appropriated cost of prison incarceration is roughly \$34,000 per prisoner per year, a figure that includes various fixed administrative and operational costs. Costs of

parole and probation supervision, exclusive of the cost of electronic tether, average about \$2,100 per supervised offender per year. To the extent that misdemeanor convictions increased under the bill, local units of government could incur increased costs of jail incarceration or misdemeanor probation supervision, both of which vary with jurisdiction. Any increase in penal fine revenues could benefit local libraries, which are the constitutionally-designated recipients of those revenues.

Legislative Analyst: Chris Couch
Fiscal Analyst: Bob Schneider

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