

Legislative Analysis



MINORS ENGAGED IN PROSTITUTION

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House Bill 5012

Sponsor: Rep. Eileen Kowall

House Bill 5026

Sponsor: Rep. Kurt Heise

Committee: Criminal Justice

Complete to 11-12-13

A SUMMARY OF HOUSE BILL 5012 AS INTRODUCED 9-26-13 AND HOUSE BILL 5026 AS INTRODUCED 10-1-13

House Bill 5012 would create a presumption that a minor prosecuted for prostitution was a victim of human trafficking, was subject to the temporary protective custody provisions of the juvenile code, and was eligible for services provided to dependent minors subjected to abuse and neglect. House Bill 5026 would establish criteria under which a juvenile up to age 18 may be found to be a dependent minor and includes minors alleged to have engaged in prostitution.

The bills are tie-barred to each other, meaning that a single bill could not take effect unless the other bill is also enacted.

House Bill 5012

The Michigan Penal Code establishes penalties for the crime of prostitution, including enhanced penalties for repeat violations. House Bill 5012 would amend the code (MCL 750.451) to require, in any prosecution of a minor for an offense punishable under the prostitution prohibitions, that it be presumed the minor had been coerced into child sexually abusive activity or commercial sexual activity in violation of the code's prohibition on such conduct or otherwise forced or coerced into committing that offense by another person engaged in human trafficking in violation of the 2006 Human Trafficking statute (Sections 462a to 462j).

The minor would be subject to the temporary protective custody provisions under the juvenile code. In addition, the state could petition the court to find the minor to be a dependent juvenile in need of services. However, a dependent minor who failed to substantially comply with court-ordered services would not be eligible for this presumption.

A law enforcement officer who took a person under 18 years of age into custody for a suspected violation of engaging in prostitution would have to notify the Department of Human Services of a suspected violation of human trafficking involving a minor in violation of the Human Trafficking statute.

House Bill 5026

The juvenile code grants authority to the family division of circuit court over juveniles under 18 years of age under certain circumstances. House Bill 5026 would amend Section 2 of the juvenile code within the Probate Code (MCL 712A.2) to extend the court's authority to juveniles up to 18 years of age who are dependent and in danger of substantial physical or psychological harm. The juvenile may be found dependent when the juvenile is:

- Homeless or not living with a parent or other legally responsible person;
- Has repeatedly run away from home and is beyond control of a parent or other legally responsible person;
- Is alleged to have committed a commercial sexual activity (as defined in the Michigan Penal Code, MCL 750.462a) or a delinquent act that is the result of force, fraud, coercion, or manipulation exercised by a parent or other adult;
and/or
- The custodial parent or legally responsible person has died or has become permanently incapacitated and no appropriate parent or legally responsible person is willing and able to provide care for the juvenile.

(Section 462a of the Michigan Penal Code defines "commercial sexual activity" to include an act of sexual penetration or sexual contact for which anything of value is given or received by any person, or any conduct prohibited under the child sexually abusive activity or materials statute. "Sexual penetration" and "sexual contact" are defined in Section 520a of the code.)

FISCAL IMPACT:

Impact on the Judiciary

House Bill 5012 would have an indeterminate fiscal impact on the judiciary system if there is an increase in the number of youth that the state requests the court to find to be dependent youths in need of services. The bill's new requirement could cause an increase in administrative workload for the courts, depending on the number of relevant cases they handle.

House Bill 5026 would have an indeterminate fiscal impact on the judiciary system if there is an increase in the number of youth that would fall under the Probate Court's jurisdiction. If there is an increase, there would be an increase in the administrative workload for the probate courts.

Impact on the Department of Human Services

House Bill 5012 could increase costs to the state and to county child care funds by an uncertain amount. The increase would only occur to the degree that this bill increases the number of youth the state requests that the court finds to be a dependent youth in need of services. The number of youth and the types of services those youth would participate in are uncertain at this time.

House Bill 5026 could increase costs to the state and to county child care funds by an uncertain amount. The increase would only occur to the degree that this bill increases the number of youth that would now fall under the Probate Court's jurisdiction. The number of youth and the types of services those youth would participate in are uncertain at this time.

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■ 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.