

Legislative Analysis



ABORTION: PROHIBIT INTENTIONAL COERCION

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<http://www.house.mi.gov/hfa>

House Bill 4787 as enacted
Public Act 149 of 2016
Sponsor: Rep. Amanda Price

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

House Bill 4830 as enacted
Public Act 150 of 2016
Sponsor: Rep. Nancy E. Jenkins

House Committee: Criminal Justice
Senate Committee: Judiciary
Complete to 8-24-16

SUMMARY:

House Bill 4787 makes it a criminal offense to intentionally coerce a pregnant woman to have an abortion against her will, creates penalties, and defines terms. House Bill 4830 includes the felony provision under House Bill 4787 in the sentencing guidelines.

Specifically, the bills do the following:

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

- ❖ Committing, attempting to commit, or threatening to commit any of the following violations against her or any other person:
 - Stalking or aggravated stalking.
 - An assaultive crime, as defined in Section 9a of Chapter X of the Code of Criminal Procedure. ("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, engaging in coercion as defined in Section 462a of Chapter LXVIIA ("Human Trafficking") of the Michigan Penal Code.

Information (or being informed) that a pregnant female does not want to obtain an abortion includes any fact 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 commits a stalking offense or an assaultive crime in order to coerce a pregnant female to obtain an abortion against her will is 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.)

Engaging in coercion is 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 is guilty of a misdemeanor punishable by a fine of not more than \$10,000.

In addition, the person may be charged with, convicted of, or punished for any other violation of law committed while violating the provisions of the bill.

Definitions: "Threaten" means 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 does not include constitutionally protected speech or any generalized statement regarding a lawful pregnancy option.

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

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

MCL 750.213a

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 has a variable statutory maximum term of imprisonment.

MCL 777.16l

The bills take effect September 7, 2016.

FISCAL IMPACT:

House Bill 4787 would increase costs for state and local correctional systems. Information is not available on the number of persons who 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 for 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.

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■ 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.