



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 4787 (Substitute H-1 as passed by the House)
House Bill 4830 (as passed by the House)
Sponsor: Representative Amanda Price (H.B. 4787)
Representative Nancy E. Jenkins (H.B. 4830)
House Committee: Criminal Justice
Senate Committee: Judiciary

Date Completed: 5-2-16

CONTENT

House Bill 4787 (H-1) would amend the Michigan Penal Code to prohibit and prescribe criminal penalties for the following:

- **Committing, attempting, or threatening stalking, aggravated stalking, or an assaultive crime with the intent to coerce a pregnant female to have an abortion.**
- **Taking other coercive action after being informed by a pregnant female that she did not want to obtain an abortion.**

House Bill 4830 would amend the sentencing guidelines in the Code of Criminal Procedure to include coercing a female to have an abortion against her will.

Each bill would take effect 90 days after its enactment. House Bill 4830 is tie-barred to House Bill 4787.

House Bill 4787 (H-1)

Under the bill, a person having actual knowledge that a female was pregnant, would be prohibited from committing, attempting to commit, or threatening to commit stalking, aggravated stalking, or an assaultive crime against her or any other person with the intent to coerce the pregnant female to have an abortion against her will. A violation would be punishable in the same manner as prescribed for the underlying offense committed, attempted, or threatened.

("Threaten" would mean 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 would not include constitutionally protected speech or any generalized statement regarding a lawful pregnancy option. "Course of conduct" would refer to a series of two or more separate noncontinuous acts evidencing a continuity of purpose.

The offense of stalking is a misdemeanor punishable by up to one year's imprisonment and/or a maximum fine of \$1,000. If the victim was less than 18 years old during the offender's course of conduct and the offender is at least five years older than the victim, the offense is a felony punishable by up to five years and/or \$10,000. Aggravated stalking is a felony punishable by imprisonment for up to five years and/or a maximum fine of \$10,000. If the

victim was under 18 during the course of conduct and the offender is at least five years older than the victim, the maximum penalty is 10 years and/or \$15,000.

"Assaultive crime" would mean that term as defined in Chapter X, Section 9a of the Code of Criminal Procedure, i.e., an offense against a person described in specified sections of the Penal Code. Under the majority of those sections, the offense is a felony. The maximum terms of imprisonment range from two years to up to life.)

Also, under the bill, after being informed by a pregnant female that she did not want to obtain an abortion, a person would be prohibited from engaging in coercion as defined in Section 462a of the Penal Code (described below).

For purposes of this prohibition, information that a pregnant female did not want to obtain an abortion would include any fact that would clearly demonstrate to a reasonable person that she was unwilling to comply with a request or demand to have an abortion.

This offense would be a misdemeanor punishable by a maximum fine of \$5,000. If the offender were the father or putative father of the unborn child and at least 18 years old at the time of the violation, and the pregnant female were under 18 at the time, the maximum fine would be \$10,000. ("Unborn child" would mean a live human being in utero, regardless of gestational stage of development.)

(Section 462a is within Chapter 67A (Human Trafficking) of the Penal Code, and specifies that "coercion" includes any of the following:

- Threatening to harm or physically restrain any individual or the creation of any scheme, plan, or pattern intended to cause an individual to believe that failure to perform an act would result in psychological, reputational, or financial harm to, or physical restraint of, any individual.
- Abusing or threatening abuse of the legal system, including threats of arrest or deportation without regard to whether the individual being threatened is subject to arrest or deportation under Michigan and U.S. law.
- Knowingly destroying, concealing, removing, confiscating, or possessing an actual or purported passport or other immigration document or government ID document from any individual without regard to whether the documents are fraudulent or fraudulently obtained.)

The bill would not prohibit an offender from being charged with, convicted of, or punished for any other violation of law committed while violating the bill.

House Bill 4830

Under the bill, coercing a female to have an abortion against her will (by stalking, aggravated stalking, or an assaultive crime) would be included in the sentencing guidelines as a felony against a person with a variable classification and a variable statutory maximum penalty. For such a violation, the sentencing court would have to determine the offense class, offense variable level, and prior record variable level based on the underlying offense.

Proposed MCL 750.213a (H.B. 4787)
MCL 777.16l (H.B. 4830)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. If the coercion that would be prohibited under the bills were in the form of stalking or an assaultive

crime, the violator would be punished according to the law that applied to that category of offense. Thus, the bills would be unlikely to result in any incarceration in addition to what would be allowed under current law, assuming that the violator was prosecuted for the underlying offense and the terms of imprisonment were concurrent (although consecutive sentencing would be allowed). To the extent that the underlying offenses would already be prosecuted, the costs to local courts and law enforcement would be unchanged.

If the provisions of the bill caused an increase in prison intakes, in the short term, the marginal cost to State government would be approximately \$3,764 per additional prisoner per year. Over the long term, if intakes increased enough to force the Department of Corrections to open a housing unit or an entire facility, the marginal cost to State government would be approximately \$34,550 per additional prisoner per year.

For violations of the proposed offense other than stalking and assault, the violator could be charged with a misdemeanor from which penal fine revenue of up to \$5,000 (or \$10,000 in some circumstances) would be dedicated to public libraries.

Fiscal Analyst: Ryan Bergan