



Senate Fiscal Agency
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BILL ANALYSIS

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House Bills 5542, 5543, and 5544 (as reported without amendment)

Sponsor: Representative Laura Cox (H.B. 5542)
Representative Gary Howell (H.B. 5543)
Representative Nancy E. Jenkins (H.B. 5544)

House Committee: Criminal Justice

Senate Committee: Judiciary

CONTENT

House Bill 5542 would amend Public Act 213 of 1965, which governs the setting aside of criminal convictions, to allow someone to apply for the expunction of a conviction for violating a prostitution-related local ordinance that was substantially similar to a State law, as currently permitted if a person is convicted of violating the State law.

Under the Act, a person who is convicted of a violation of Section 448, 449, or 450 of the Michigan Penal Code may apply to have that conviction set aside if he or she committed the offense as a direct result of being a victim of a human trafficking violation. Under the bill, that provision also would apply to a person convicted of violating a local ordinance substantially corresponding to Section 448, 449, or 450. (Sections 448, 449, and 450 apply to people who are at least 16 years of age. Section 448 prohibits soliciting, accosting, or enticing prostitution; Section 449 prohibits admitting another person to a place of prostitution; and Section 450 prohibits aiding, assisting, or abetting prostitution.)

House Bill 5543 would amend the juvenile code to require the court to set aside a person's adjudication for a prostitution-related offense, if the person committed the offense as a result of being a victim of human trafficking.

Under the juvenile code, a person who has been adjudicated for certain offenses that would be crimes if committed by an adult may file an application with the adjudicating court to have the adjudication set aside. The bill would require the court to set aside an adjudication for a violation of Section 448, 449, or 450 of the Penal Code or a substantially corresponding local ordinance if the person committed the offense as a direct result of being a victim of a human trafficking violation and met the requirements for having the adjudication expunged.

House Bill 5544 would amend the Michigan Penal Code to do the following:

- Establish a presumption that a person under 18 who was prosecuted for violating a prostitution-related local ordinance substantially similar to a State law was coerced into child sexually abusive activity or commercial sexual activity or otherwise coerced by someone engaged in human trafficking.
- Apply a felony penalty to certain human-trafficking offenses that resulted in an individual being engaged in commercial sexual activity, as currently provided for such offenses that result in bodily injury to an individual.

Under the Penal Code, in any prosecution of a person under 18 for certain prostitution-related offenses, there is a rebuttable presumption that the person was coerced into child sexually abusive activity or commercial sexual activity or was otherwise forced into committing the

offense by another person engaged in human trafficking. Under the bill, that presumption also would apply in a prosecution of a person under 18 for a substantially corresponding local ordinance.

Under the Code, a violation of certain human trafficking offenses is a felony punishable by up to 10 years' imprisonment and/or a fine up to \$10,000. If the violation results in bodily injury to an individual, it is punishable by up to 15 years' imprisonment and/or a maximum fine of \$15,000. Under the bill, that penalty also would apply to a violation of any of those human trafficking offenses that resulted in an individual being engaged in commercial sexual activity.

Each of the bills would take effect 90 days after its enactment.

MCL 780.621 (H.B. 5542)
712A.18e (H.B. 5543)
750.451 & 750.462f (H.B. 5544)

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

House Bill 5542 would have no fiscal impact on the State and could have a negative fiscal impact on local units of government. An increase in expungement hearings could place incremental resource demands on local courts.

House Bill 5543 would have no fiscal impact on the State and could have a negative fiscal impact on local units of government. An increase in hearings to set aside juvenile adjudications could place incremental resource demands on local courts.

House Bill 5544 could have a negative fiscal impact on the State if it increased felony sentences. Longer felony sentences could lead to increased costs for correctional facilities. In the short term, the marginal cost to State government would be approximately \$3,764 per prisoner per year. In the long term, if the increased length of sentences increased the total prisoner population enough to require 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 prisoner per year. Any associated increase in fine revenue would be dedicated to public libraries.

There also could be an increase in cost to the State and local government to the extent that individuals would not be prosecuted under a local ordinance that is substantially similar to a State law to which the presumption applies. Since this could increase the number of individuals under temporary protective custody, there could be an increase in the need for juvenile services, which are funded through the Department of Health and Human Services and county governments.

Date Completed: 9-16-16

Fiscal Analyst: Ryan Bergan
John Maxwell

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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.