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House Bill 5054 (Substitute H-1 as passed by the House)
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House Bill 5056 (Substitute H-1 as passed by the House)
House Bill 5057 (Substitute H-1 as passed by the House)
House Bill 5058 (Substitute H-1 as passed by the House)

Sponsor: Representative Diana Farrington (H.B. 5054)
Representative Julie Calley (H.B. 5055)
Representative Kristy Pagan (H.B. 5056)
Representative Daire Rendon (H.B. 5057)
Representative Kyra Harris Bolden (H.B. 5058)

House Committee: Judiciary

Senate Committee: Judiciary and Public Safety

Date Completed: 9-9-20

CONTENT

House Bill 5054 (H-1) would amend the Sexual Assault Victim's Access to Justice Act to allow a sexual assault victim who was a participant in the Address Confidentiality Program to request that information from an investigating law enforcement agency be mailed to his or her address designated by the Department of the Attorney General.

House Bill 5055 (H-1) would amend Chapter 4 (Arrest) of the Code of Criminal Procedure to do the following:

- Require a notice given to a domestic violence victim to include a statement informing the victim that he or she could apply to the Department of the Attorney General for certification as a participant in the Address Confidentiality Program.
- Require the notice to include a statement about the victim's right to request a personal protection order (PPO) to restrain or enjoin an abuser from injuring, killing, torturing, neglecting, removing, or retaining (or threatening to do so) an animal in which the victim had an ownership interest, or threatening to do so, to cause the victim mental distress or to exert control over him or her.

House Bills 5056 (H-1) through 5058 (H-1) would amend Articles 1, 2, and 3, respectively, of the Crime Victim's Rights Act to do the following:

- Allow a notice by mail to be mailed to a victim's address designated by the Department of Attorney, if the victim were a participant in the Address Confidentiality Program.
- Require a victim to keep certain specified individuals informed of his or her address designated by the Department of the Attorney General, if the victim were a Program participant.
- Require forms given to a victim that he or she could submit to receive certain notices to include a statement that the victim could use the address designated by the Department of the Attorney General to receive notices if the victim were a Program participant.

Each bill is tie-barred to Senate Bill 70, which would create the Address Confidentiality Program Act.

House Bill 5054 (H-1)

The Sexual Assault Victim's Access to Justice Act specifies that when a sexual assault victim requests information from an investigating law enforcement agency, the agency must respond by telephone, in writing mailed to the victim, or by electronic mail, as specified by the victim.

Under the bill, if the sexual assault victim were a Program participant who requested that the information be mailed to his or her address designated by the Department of the Attorney General, the law enforcement agency would have to respond in writing mailed to the victim at that address. "Program participant" would mean that term as defined in the Address Confidentiality Program Act.

House Bill 5055 (H-1)

Under the Code of Criminal Procedure, after investigating or intervening in a domestic violence incident, a peace officer must provide the victim with a written notice that includes the police agency's name and telephone number; the peace officer's name and badge number; and specific statements about the rights and services available to the victim.

Included among the statements about the rights and services available to the victim is the right to file a petition to request a PPO to protect the victim or other members of his or her household from domestic abuse, which could include restraining or enjoining the abuser from certain conduct.

Under the bill, the PPO would also have to include restraining or enjoining the abuser from doing the following:

- Injuring, killing, torturing, neglecting, removing, or retaining an animal in which the victim had an ownership interest to cause the victim mental distress or to exert control over him or her.
- Threatening to injure, kill, torture, or neglect an animal in which the victim had an ownership interest to cause the victim mental distress or to exert control over him or her.

Additionally, once the Department of the Attorney General implemented the Address Confidentiality Program, the written statement about the rights and services available to a victim would have to include the following statement: "If you change your residence and would like to keep you address confidential, you may apply to the Department of the Attorney General for certification as a Program participant in the Address Confidentiality Program."

"Address Confidentiality Program" would mean the program created in the Address Confidentiality Program Act.

House Bill 5056 (H-1)

The duty under Article 1 of the Crime Victim's Rights Act, which deals with felonies, or under Article I, Section 24 of the Michigan Constitution of a court, the Department of Corrections (DOC), the Department of Health and Human Services (DHHS), a county sheriff, or a prosecuting attorney to provide a notice to a victim also applies if the case against the defendant is resolved by assignment of the defendant to trainee status, by a delayed sentence or deferred judgment of guilty, or in another way that is not an acquittal or unconditional dismissal.

Under the bill, in performing a duty to provide notice by mail under Article 1 or under Article I, Section 24 of the Michigan Constitution, a court, the DOC, the DHHS, county sheriff, or prosecuting attorney would have to mail the notice to the address provided by the victim, except as otherwise provided under Section 11 of the Address Confidentiality Program Act. If a victim were a Program participant, as that term is defined in the Address Confidentiality Program Act, he or she could provide the address designated by the Department of Attorney General.

Article 1 of the Act also requires a victim who receives a notice and who chooses to receive any notice or exercise any right under Article 1 to keep certain individuals specified in Article 1 informed of the victim's current address and telephone number. Under the bill, the victim also would have to keep the listed individuals informed of the victim's address designated by the Department of the Attorney General if he or she were a Program participant.

Under Article 1 of the Act, when a defendant is sentenced to probation, sentenced to a term of imprisonment, ordered to be placed in a juvenile facility, or hospitalized in or admitted to a hospital or facility, the prosecuting attorney must provide the victim with a form the victim may submit to receives notices. The form must include the address of the court, the DOC, the sheriff, the DHHS, the county juvenile agency, or the hospital or facility to which the form may be sent.

The bill also would require the form to include a statement that the victim could use the address designated by the Department of the Attorney General to receive notices if the victim were a Program participant.

House Bill 5057 (H-1)

The duty under Article 3 of the Crime Victim's Rights Act, which deals with serious misdemeanors, or under Article I, Section 24 of the Michigan Constitution of a court, the DOC, the DHHS, a county sheriff, or a prosecuting attorney to provide a notice to a victim also applies if the case against the defendant is resolved by assignment of the defendant to trainee status, by a delayed sentence or deferred judgment of guilty, or in another way that is not an acquittal or unconditional dismissal.

Under the bill, in performing a duty to provide notice by mail under Article 3 or under Article I, Section 24 of the Michigan Constitution, a court, the DOC, the DHHS, county sheriff, or prosecuting attorney would have to mail the notice to the address provided by the victim, except as otherwise provided under Section 11 of the Address Confidentiality Program Act. If a victim were a Program participant, he or she could provide the address designated by the Department of Attorney General.

Under Article 3, if no guilty plea or nolo contendere plea is accepted at an arraignment, the court must notify the prosecuting attorney within 48 hours after the arraignment. The notice is not a public record. Under the bill, the notice also would be exempt from disclosure under the Freedom of Information Act.

Article 3 of the Act also requires a victim who receives a notice and who chooses to receive any notice or exercise any right under Article 3 to keep certain individuals specified in Article 3 informed of the victim's current address and telephone number. Under the bill, the victim also would have to keep the listed individuals informed of the victim's address designated by the Department of the Attorney General if he or she were a Program participant.

Article 3 specifies that when a defendant is sentenced to probation or a term of imprisonment, the prosecuting attorney must provide the victim with a form the victim may submit to receive

notices. The form must include the address of the court, the prosecuting attorney, or the sheriff's department, as applicable, to which the form may be sent.

The bill also would require the form to include a statement that the victim could use the address designated by the Department of the Attorney General to receive notices if the victim were a Program participant.

House Bill 5058 (H-1)

The duty under Article 2 of the Crime Victim's Rights Act, which deals with juvenile offenses, or under Article I, Section 24 of the Michigan Constitution of a court, the DOC, the DHHS, a county sheriff, or a prosecuting attorney to provide a notice to a victim also applies if the case against the defendant is resolved by assignment of the defendant to trainee status, by a delayed sentence or deferred judgment of guilty, or in another way that is not an acquittal or unconditional dismissal.

Under the bill, in performing a duty to provide notice by mail under Article 2 or under Article I, Section 24 of the Michigan Constitution, a court, the DOC, the DHHS, county sheriff, or prosecuting attorney would have to mail the notice to the address provided by the victim, except as otherwise provided under Section 11 of the Address Confidentiality Program Act. If a victim were a Program participant, the victim could provide the address designated by the Department of Attorney General.

Articles 2 also requires a victim who receives a notice and who chooses to receive any notice or exercise any right under those Articles to keep certain individuals specified in Article 2 informed of the victim's current address and telephone number. Under the bill, the victim also would have to keep the listed individuals informed of the victim's address designated by the Department of the Attorney General if he or she were a Program participant.

Under Article 2, if a juvenile is ordered to be placed in a juvenile facility or sentenced to probation or to a term of imprisonment, the prosecuting attorney must provide the victim with a form the victim may submit to receives notices from the court, prosecuting attorney, the DHHS, or county juvenile agency, as applicable. The form must include the address of the court, the prosecuting attorney, the DHHS, county juvenile agency, the DOC, or the sheriff's department, as applicable, to which the form may be sent.

The bill also would require the form to include a statement that the victim could use the address designated by the Department of the Attorney General to receive notices if the victim were a Program participant.

MCL 752.954 (H.B. 5054)
764.15c (H.B. 5055)
780.752a et al. (H.B. 5056)
780.811b et al. (H.B. 5057)
780.781a et al. (H.B. 5058)

Legislative Analyst: Stephen Jackson

FISCAL IMPACT

House Bills 5054 (H-1) & 5055 (H-1)

The bills would have a minimal fiscal impact on State and local law enforcement agencies.

House Bills 5056 (H-1), 5057 (H-1), & 5058 (H-1)

The bills would result in a minor increase in costs to the DHHS, which could be borne by existing departmental resources.

The bills would have no fiscal impact on local government.

Fiscal Analyst: Ellyn Ackerman
Bruce Baker
Joe Carrasco

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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.