

Legislative Analysis



PROHIBIT USE OF PROFESSIONAL AUTHORITY TO PREVENT REPORT OF CERTAIN CRIMES

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 4851 as introduced
Sponsor: Rep. Julie Alexander

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

House Bill 4852 as introduced
Sponsor: Rep. Sara Cambensy

Committee: Judiciary
Complete to 9-13-21

SUMMARY:

House Bills 4851 and 4852 would each amend the Michigan Penal Code to prohibit an individual from intentionally using his or her professional authority over another person to prevent or attempt to prevent that other person from reporting certain crimes.

Section 483a of the Penal Code currently prohibits a person from doing any of the following:

- Withholding or refusing to produce testimony, information, documents, or things in violation of a court order.
- Preventing or attempting to prevent through unlawful physical force another person from reporting a crime or attempted crime.
- Retaliating or attempting to retaliate against another person for reporting or attempting to report a crime or attempted crime.

Violation of these provisions is a misdemeanor punishable by imprisonment for up to one year, a fine of up to \$1,000, or both. If the violation involved committing or attempting to commit a crime or a threat to kill or injure a person or to cause property damage, it is a felony punishable by imprisonment for up to 10 years, a fine of up to \$20,000, or both.

House Bill 4851 would amend section 483a to additionally prohibit a person from intentionally using his or her professional position of authority over another person to prevent or attempt to prevent that other person from reporting a crime committed or attempted by another person that is listed in any of the following sections of the Penal Code:

- Section 136b (child abuse).
- Section 520b (criminal sexual conduct (CSC) in the first degree).
- Section 520c (CSC in the second degree).
- Section 520d (CSC in the third degree).
- Section 520e (CSC in the fourth degree).
- Section 520g (assault with intent to commit CSC in the first, second, or third degree).

MCL 750.483a

House Bill 4852 would add section 478b to the Penal Code to prohibit a person from intentionally using his or her position of authority over another person to prevent or attempt to prevent the other person from reporting an alleged violation of any of the following Penal Code sections to a Title IX coordinator at a ***postsecondary educational institution***:

- Section 136b (child abuse).
- Section 520b (CSC in the first degree).
- Section 520c (CSC in the second degree).
- Section 520d (CSC in the third degree).
- Section 520e (CSC in the fourth degree).
- Section 520g (assault with intent to commit CSC in the first, second, or third degree).

Postsecondary educational institution would mean a degree- or certificate-granting public or private college or university, junior college, or community college located in this state.

A person who violated section 478b would be guilty of a misdemeanor punishable by imprisonment for up to one year, a fine of up to \$1,000, or both.

Proposed MCL 750.478b

Each bill would take effect 90 days after being enacted.

BACKGROUND:

House Bills 4851 and 4852 are reintroductions of House Bills 4374 and 4383 of the 2019-20 legislative session and House Bills 5537 and 5982 of the 2017-18 legislative session. Those earlier bills were passed by the House of Representatives in their respective sessions. The bills are part of a larger package of bills to address sexual assault that were originally introduced following the revelation of hundreds of instances in which Larry Nassar, a nationally known physician employed by Michigan State University who also provided medical treatments to members of the USA Olympics women's gymnastics team, was found to have engaged in practices that constituted criminal sexual conduct.

FISCAL IMPACT:

House Bill 4851 would have an indeterminate fiscal impact on the state and on local units of government. Information is not available on the number of persons who would be convicted under provisions of the bill. Violations could be either misdemeanors or felonies, depending on the circumstances. New misdemeanor convictions would increase costs related to county jails or local misdemeanor probation supervision, or both. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. New felony convictions would result in increased costs related to state prisons and state probation supervision. In fiscal year 2020, the average cost of prison incarceration in a state facility was roughly \$42,200 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$4,300 per supervised offender in the same year. The fiscal impact on local court systems would depend on how provisions of the bill affected caseloads and related administrative costs. Increased costs could be offset, to some degree, depending on whether additional court-

imposed fee revenue is generated. Any increase in penal fine revenue would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

House Bill 4852 would have an indeterminate fiscal impact on local units of government. Information is not available on the number of persons who would be convicted under provisions of the bill. New misdemeanor convictions would increase costs related to county jails or local misdemeanor probation supervision, or both. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. The fiscal impact on local court systems would depend on how provisions of the bill affected caseloads and related administrative costs. Increased costs could be offset, to some degree, depending on whether additional court-imposed fee revenue is generated. Any increase in penal fine revenue would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

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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.