

Legislative Analysis



MODIFY YOUTH EMPLOYMENT STANDARDS ACT ENFORCEMENT AND MINOR WORK PERMIT PROCEDURES

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

Senate Bill 963 as passed by the Senate
Sponsor: Sen. Sylvia A. Santana

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

Senate Bill 964 (S-1) as passed by the Senate
Sponsor: Sen. Mary Cavanagh

Senate Bill 965 (S-1) as passed by the Senate
Sponsor: Sen. Darrin Camilleri

Committee: Labor
Complete to 11-13-24

SUMMARY:

Senate Bill 965 would increase penalties for violations of the Youth Employment Standards Act. Senate Bill 963 is a companion bill that would add the felonies established by Senate Bill 965 to the sentencing guidelines chapter of the Code of Criminal Procedure. SB 964 would amend the process for issuing minor work permits, incorporate federal employment hour limitations for 14- and 15-year-olds, and modify the procedure for granting 16- and 17-year-olds deviations from employment hour standards.

Senate Bill 965 would modify the penalties for violations of the Youth Employment Standards Act. Currently, violations of the act are generally misdemeanors punishable by up to one year's imprisonment, a fine of up to \$500, or both; separate penalties apply for the employment of minors in occupations involving cash transactions without required supervision after sunset or 8 p.m., whichever is earlier, and for the employment of children in sexually abusive activity.

Under Senate Bill 965, an initial violation of the act would remain a misdemeanor, but the maximum fine would be raised to \$5,000. A second violation would be a felony punishable by up to two years' imprisonment, a fine of up to \$25,000, or both, and a third or subsequent offense would be a felony punishable by up to five years' imprisonment, a fine of up to \$50,000, or both.

The bill would eliminate the separate penalties for adult supervision violations, which would be subject to the same penalties as described above. (Current enhanced penalties would remain for the employment of children in sexually abusive activity.)

Under the bill, if a minor is killed or suffers great bodily harm while working for their employer in violation of the act, the employer or their agent would be guilty of a felony and would have to be fined at least \$50,000 but no more than \$500,000. A first offense would be punishable by up to five years' imprisonment, a second offense would be punishable by up to 10 years' imprisonment, and a third or subsequent offense would be punishable by up to 20 years' imprisonment. The bill would provide that the imposition of a fine, penalty, or other sanction under the Youth Employment Standards Act does not affect any other right or remedy under another law.

Additionally, the bill would allow the director of the Department of Labor and Economic Opportunity (LEO) to impose an administrative fine of up to \$5,000 for each violation of the act after providing notice and an opportunity for a contested case hearing under the Administrative Procedures Act. If a person who violates the act does not pay the fine, the attorney general would have to bring a civil action to recover the fine, in addition to any related costs or fees. Fines would be deposited in the general fund.

The LEO director could also bring an action to obtain a declaratory judgment that a method, act, or practice violates the act, or obtain an injunction against an employer who engages or is about to engage in a method, act, or practice that violates the act, or both.

The LEO director could also obtain a judgment requiring an employer to pay an award to each minor employed in violation of the act. If the violation resulted in the minor's being unable to continue work with that employer, the amount of the award would have to be at least quadruple the minor's hourly wage rate at the time of the violation multiplied by the average number of hours they worked during the four weeks preceding the violation.¹

Finally, the bill would prohibit employers from discharging, disciplining, retaliating against, or otherwise discriminating against an employee or minor who exercises a right under the act on their own behalf or on behalf of another employee or minor.

MCL 409.102 et seq.

Senate Bill 963 would add the felonies created and modified by Senate Bill 965 to the sentencing guidelines provisions of the Code of Criminal Procedure. Under the bill, the employment of a minor during certain hours that involves death or great bodily harm would be a class E felony against a person with a statutory maximum term of imprisonment of five years for a first offense. A second offense would be a class D felony against a person with a statutory maximum term of imprisonment of 10 years, and a third or subsequent offense would be a class B felony against a person with a statutory maximum term of imprisonment of 20 years.

The bill would remove the guidelines for adult supervision violations and add guidelines for felony violations of the Youth Employment Standards Act. A second offense would be a class G felony against a person with a statutory maximum term of imprisonment of two years, and a third or subsequent offense would be a class E felony against a person with a statutory maximum term of imprisonment of five years.

Finally, the bill would update references to the Youth Employment Standards Act to reflect paragraph numbering changes made by SB 965.

The bill cannot go into effect unless Senate Bill 965 is also enacted.

MCL 777.14b

¹ Presumably this is intended to mean the average number of hours *per week*, but the bill does not specify a time period to average.

Senate Bill 964 would amend the Youth Employment Standards Act to modify the procedures for issuing work permits to minors, modify the hours during which minors younger than 16 are allowed to work, and limit the circumstances under which a deviation can be granted for minors 16 and older.

Under the Youth Employment Standards Act,² work permits for minor employees are issued and revoked by the chief administrator (or their authorized designee) of the minor's school district, intermediate school district (ISD), public school academy (PSA), or nonpublic school. The permits are kept on file at the minor's place of employment and in their permanent school record for the duration of employment, and after the minor terminates employment, their employer must return the work permit to the school administrator.

Beginning 18 months after it takes effect, Senate Bill 964 would transfer the responsibility for issuing and revoking work permits to the LEO director or their designee. After this date, a minor would generally have to register with LEO before starting work in an occupation regulated by the Youth Employment Standards Act, and the person proposing to employ the minor would generally have to be authorized by LEO and in compliance with the act. After termination of employment, a minor's employer would have to directly notify LEO.³

LEO registration

The LEO director or designee would have to create and maintain a free, public, and online registration system that allows a minor, or a parent or legal guardian on the minor's behalf, to register for employment and that allows an employer to register to employ minors.

Minors and their parents or guardians would have to be able to submit information through the system that allows LEO to identify the minor's name, age, home address, and contact information, in addition to each parent's or legal guardian's name, home addresses, and contact information. A minor or their parent or legal guardian would also have to be able to describe a physical limitation of the minor.

The system would have to automatically notify an employer for which a minor registers for employment. Before hiring a minor, the employer would have to submit the following information to the registration system, in addition to any other information required by LEO:

- The employer's name and contact information.
- The minor's name and contact information.
- The address of each of the employer's worksites and the minor's proposed primary worksite.
- The name of each minor currently employed.
- A signed statement made under penalty of perjury that the employer will comply with all applicable youth employment laws.

The LEO director could establish other requirements for the system that they determine to be relevant.

² For a fact sheet on Michigan's youth labor rules, see: https://www.michigan.gov/-/media/Project/Websites/leo/Folder23/whd9803_act_90_brochure_JH_Sugg_Edits.pdf.

³ A minor hired before the 18-month implementation date, and their employer, would be exempt from the bill's registration requirements until the minor becomes employed by a different employer, the primary location at which the minor works is changed, or the minor turns 16.

Information in the registration system (other than information in the youth employer database, as described below) would be exempt from disclosure under the Freedom of Information Act (FOIA), and LEO could disclose information in the system only as necessary for enforcement and implementation of the Youth Employment Standards Act.

Permit approval

Within five days after a minor and their employer complete the online registration, the LEO director or designee would have to determine whether the minor's employment would be in compliance with the act and notify the employer, minor, and parent or guardian of their determination and of any deviations that have been requested or authorized. If LEO does not notify the required individuals by the deadline, the minor could immediately begin work for the employer.

The online registration system would have to allow a minor, parent or legal guardian, or employer to review a determination. A parent or legal guardian would have five days after receiving the notice to notify LEO that they do not consent to a deviation or portion of the deviation, and then the deviation or portion of the deviation would not be authorized.

Youth employer database

The LEO director or would have to create a database of authorized employers based on the information in the registration system that displays, upon each authorized employer's request, the employer's name and address and that is available online to the public at no cost. If the LEO director or designee determines that an employer in the database is unauthorized to employ minors under the Youth Employment Standards Act, they would have to immediately remove the employer.

Work hours for minors under 16

Currently, a minor who is 14 or 15 years old cannot work outside the hours of 7 a.m. to 9 p.m., cannot work for more than six days in one week or for a period longer than a weekly average of eight hours per day or 48 hours per week, and cannot work for more than ten hours in a day. If the minor is a student, they cannot be employed more than a combined school and work week of 48 hours while school is in session.

Instead, SB 964 would prohibit 14- and 15-year-olds from working outside the hours of 7 a.m. and 9 p.m. between June 1 and Labor Day and outside the hours of 7 a.m. and 7 p.m. for the rest of the year. In addition, those minors could work for a maximum of three hours per day and 18 hours a week during a week when school is in session, and a maximum 40 hours per week with no daily limit when school is not in session. (As is current law, the bill would provide that 14- and 15-year-olds can only work during times outside of school hours.⁴) These provisions would be identical to federal requirements for 14- and 15-year-olds.⁵

Deviations

Currently, 16- and 17-year-olds cannot work between 10:30 p.m. (or 11:30 p.m. on weekends and while school is not in session) and 6 a.m. without receiving approval from LEO for a

⁴ *Outside school hours* would mean, as defined in 29 CFR 570.35, such periods as before and after school hours, holidays, summer vacations, weekends, and any other day or part of a day when school is not in session as determined by the applicable local public school district. Summer school sessions held outside the regular school year are considered to be outside of school hours.

⁵ See: <https://www.ecfr.gov/current/title-29/subtitle-B/chapter-V/subchapter-A/part-570/subpart-C/section-570.35>

deviation from those hours.¹ Those 15 and younger may not work outside the hours of 7 a.m. to 9 p.m. and are not eligible to receive a deviation.

The bill would prohibit a deviation that allows a minor to be employed to work between the hours of midnight and 5 a.m. or that allows a minor to be employed in, about, or in connection with an occupation that is hazardous or injurious to their health or personal well-being.

MCL 409.102 et seq.

BACKGROUND:

In Michigan, a 2019 incident at Ionia County meat processing company resulted in a serious and permanent injury to a minor who was employed in violation of the Youth Employment Standards Act. The owner of the company was fined \$1,143 for employing the child under hazardous conditions and without a verified work permit. At the time of sentencing, Michigan's attorney general called on the legislature to strengthen the Youth Employment Standards Act's protections for children employed in dangerous conditions to better hold violating employers accountable.⁶

Additionally, a 2023 *New York Times* article uncovered the exploitation of foreign-born child workers employed in hazardous conditions across the United States, including some working at a food processing facility in Grand Rapids.⁷ It detailed how migrant children can face intense pressure to make money, which can result in them taking dangerous jobs, working night shifts, and being unable to attend or concentrate at school. The article also highlighted a lack of oversight of the businesses that employ children in violation of state and federal law, due to employer negligence and understaffed enforcement agencies.

Senate Bill 965 (S-1) as passed by the Senate is similar to the H-1 substitute for House Bill 4932 as reported by the House Labor committee in October 2023.⁸ SB 963 as passed by the Senate is identical to the as-introduced version of HB 4962 reported by the House Labor committee in October 2023. The S-1 substitute for SB 964 as passed by the Senate is similar to House Bill 5594.⁹

FISCAL IMPACT:

Senate Bill 964 would create additional costs for the Department of Labor and Economic Opportunity. Costs would be incurred for the registration system, employer database, and for

⁶ <https://www.michigan.gov/ag/news/press-releases/2023/08/08/ionia-meat-processor-sentenced-after-pleading-guilty-to-illegally-employing-minor>.

⁷ <https://www.nytimes.com/2023/02/25/us/unaccompanied-migrant-child-workers-exploitation.html>.

⁸ HB 4932 additionally proposes limitations on the hours during which LEO may grant a deviation for minors who are 16 years of age or older and would allow a minor aggrieved by their employer's violation of the act to bring a court action for actual and punitive damages and court costs.

⁹ Among other things, SB 964 would additionally exempt minors who are employed at the time the bill takes effect (and their employers) from registration until the minor changes employers, changes primary work locations, or turns 16; require the notification system to automatically notify employers upon a minor's registration; require an employer's information to be publicly displayed in the database only upon the employer's request; and incorporate federal standards for work hours for minors under 16 years of age. The provisions of SB 964 related to deviations are identical to those proposed by HB 4932.

LEO's other responsibilities under the bill. The department projects that one-time costs of \$810,000 would be incurred, with ongoing costs totaling \$310,000 annually. These cost estimates include costs for two additional FTE positions and information technology modifications. The bill would not create any additional revenue for LEO.

Senate Bill 965 would increase costs to the Department of Labor and Economic Opportunity by an indeterminate amount. The amount of increased costs would be dependent on the number of new cases and violations that arise under the bill's provisions. The fiscal impact to LEO is not expected to be significant.

The Department of the Attorney General (AG) may experience an increase of cases related to the bill to the extent that it takes civil action against individuals who are reported to the department for failing to pay a civil fine. In addition to recovering the civil fine, the bill would require the AG to collect an amount for costs and attorney fees which would offset direct costs of the case for the AG. The AG would likely be able to absorb any increased caseload resulting from the bill with ongoing staff and funding. If existing AG staff is insufficient to comply with the bill additional employees may be hired. Annual state costs for an additional attorney FTE position are approximately \$200,000 and annual costs for a support staff position is approximately \$100,000.

The bill would have an indeterminate fiscal impact on the state and on local units of government. The bill would authorize the department to impose an administrative fine of not more than \$5,000 for each violation. Revenue collected from payment of administrative fines would increase revenue to the state. Under the bill, revenue from administrative fines would be required to be deposited in the general fund.

The bill would authorize the attorney general to bring a civil action to recover the administrative fine and costs and fees, would authorize the director of the department to obtain a judgement or an injunction against an employer that violates provisions of the bill, and would authorize a minor aggrieved by an employer's violation of the bill to bring court action. Depending on the number of civil actions, judgements, injunctions, and other court actions, local court systems could see an increase in caseloads and related administrative costs.

An employer or agent of an employer who employs a minor in violation of the act is guilty of a crime. Under the bill, fines for first offense misdemeanors and second, third, and subsequent felony offenses would be increased. Increased fine revenue would increase funding for public and county law libraries.

Also under the bill, if a minor is killed or suffers great bodily harm while working, the employer or the employer's agent would be guilty of a felony. Sentencing times would vary for first, second, third, and subsequent offenses and fines would be not less than \$50,000 or more than \$500,000. The number of felony convictions that would result under provisions of the bill is not known. An increase in felony convictions would result in increased costs related to state prisons and state probation supervision. In fiscal year 2023, the average cost of prison incarceration in a state facility was roughly \$48,700 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$5,400 per supervised offender in the same year. Those costs are financed with state general fund/general purpose revenue. The fiscal impact on local court systems would depend on how provisions of the bill affected court caseloads and related

administrative costs. It is difficult to project the actual fiscal impact to courts due to variables such as law enforcement practices, prosecutorial practices, judicial discretion, case types, and complexity of cases. Any increase in penal fine revenue would increase funding for public and county law libraries, which are the constitutionally designated recipients of those revenues.

Senate Bill 963 is a companion bill to SB 965 and would amend sentencing guidelines to include employment of children during certain hours involving death or great bodily harm, first, second, third and subsequent offenses, as a Class E, D, and B felonies, respectively. The bill would not have a direct fiscal impact on the state or on local units of government.

Legislative Analyst: Holly Kuhn
Fiscal Analysts: Marcus Coffin
Michael Cnossen
Robin Risko

■ 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.