

ABORTION: INTIMIDATION AND COERCION

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House Bill 4799

Sponsor: Rep. Paul Opsommer

House Bill 4798

Sponsor: Rep. Bruce Rendon

Committee: Families, Children, and Seniors

Complete to 12-5-11

A SUMMARY OF HOUSE BILLS 4798 AND 4799 AS INTRODUCED 6-22-11

House Bill 4799 would, generally speaking, amend the Michigan Penal Code to prohibit coercing a pregnant female into having an abortion against her will and to provide criminal penalties.

Under the bill, a person having actual knowledge that a female individual is pregnant could not do any of the following with the intent to coerce her to have an abortion against her will:

(1) Commit, attempt to commit, or maliciously threaten to commit any of the following violations against her or any other person:

-- A violation of Section 411h (stalking) or Section 411I (aggravated stalking) of the Penal Code.

-- An assaultive crime.

(2) After being informed by a pregnant female that she does not want to obtain an abortion, any of the following:

-- Discontinue, attempt to discontinue, or maliciously threaten to discontinue support that the person has a legal responsibility to provide or reduce support to a level below that responsibility.

--Withdraw, attempt to withdraw, or maliciously threaten to withdraw from a contract or agreement or otherwise violate the terms of that contract or agreement having previously entered into a contract or other legally binding agreement to which the pregnant female is a beneficiary.

-- Discharge or threaten to discharge her from employment.

Under the bill, information that a pregnant female does not want to obtain an abortion includes any statement or act, including inaction, that would clearly demonstrate to a reasonable person that she is unwilling to comply with a request or demand to have an abortion.

A person who violates the provisions of the bill would be guilty of a crime as follows.

** For a violation of the stalking or assaultive crime provisions, the person would be guilty of a crime punishable in the same manner as for the underlying offense committed, attempted, or maliciously threatened.

** For a violation of the other offenses, the person would be guilty of a misdemeanor punishable by a fine of not more than \$5,000. However, if the person is the father or putative father of the unborn child, the pregnant individual is less than 18 years old at the time of the violation, and the person is 18 years of age or older at the time of the violation, the person would be guilty of a misdemeanor punishable by a fine of not more than \$10,000.

If requested by the pregnant female, a law enforcement agency investigation of a violation of the bill's provisions would have to notify the pregnant female not less than 24 hours before initially contacting the person specifically alleged to have coerced or intimidated her.

The bill would not prevent a person from being charged with, convicted of, or punished for any crime committed while violating the bill's provisions. The court could order terms of imprisonment for a violation of the bill's provisions to be served consecutively to any other term of imprisonment imposed for a violation of law committed while violating the bill.

House Bill 4798 would amend the Code of Criminal Procedure (MCL 777.16l) to make a complementary amendment to sentencing guideline provisions.

FISCAL IMPACT:

The bills would have an indeterminate fiscal impact on the state and local units of government. To the extent that the bills resulted in additional convictions related to stalking or assaultive crimes, the state could experience increased costs of prison incarceration, which currently average about \$34,000 per prisoner per year, and felony probation supervision, at about \$2,100 per supervised offender per year. Counties could experience increased costs due to jail sentences imposed; those costs vary from county to county, as does the cost of misdemeanor probation supervision. It is not clear, however, that the bills create any new felony convictions that could not be prosecuted under current law.

Any increase in penal fine revenues related to the other misdemeanor offenses created in the bill could benefit local libraries, which are the constitutionally-designated recipients of those revenues.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.