



Senate Fiscal Agency
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BILL ANALYSIS



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House Bills 5842 through 5846 (as reported without amendment)

Sponsor: Representative Kurt Heise (H.B. 5842)
Representative Martin Howrylak (H.B. 5843)
Representative Klint Kesto (H.B. 5844)
Representative Vanessa Guerra (H.B. 5845)
Representative David LaGrand (H.B. 5846)

House Committee: Criminal Justice

Senate Committee: Judiciary

CONTENT

The bills would amend the Michigan Indigent Defense Commission Act, which creates the Michigan Indigent Defense Commission (MIDC) within the judicial branch of State government; requires the MIDC to propose minimum standards for the local delivery of indigent criminal defense services providing effective assistance of counsel; and establishes procedures for approval of the standards by the Michigan Supreme Court.

House Bill 5842 would re-establish the MIDC in the Department of Licensing and Regulatory Affairs, and do the following:

- Prohibit the minimum standards from infringing on the Supreme Court's authority over practice and procedure in the courts of the State.
- Revise the definition of "indigent criminal defense system" to refer to local units of government that fund trial courts, rather than such local units combined with trial courts.
- Require the MIDC to submit proposed standards to the Department, rather than the Supreme Court, for approval or rejection.
- Specify that an approved minimum standard would not be a rule under the Administrative Procedures Act.
- Specify that an approved minimum standard would be considered a final department action subject to judicial review to determine whether it was authorized by law, and vest jurisdiction for review in the Court of Claims.
- Revise MIDC principles regarding continuing legal education of defense counsel, and the review of defense counsel.
- Require a defendant's indigency to be determined by the indigent criminal defense system, rather than by the court, and state that a trial court could play a role in determining indigency.

House Bill 5842 would delete requirements concerning the collection of data by the MIDC from individual attorneys who provide indigent criminal defense services.

House Bills 5843 and 5844 would refer to approval of a standard by the Department, rather than the Supreme Court.

House Bill 5846 would delete a requirement that every trial court that is part of an indigent criminal defense system comply with an approved plan under the Act.

MCL 780.983 et al. (H.B. 5842)
780.989 (H.B. 5843)
780.993 (H.B. 5844)
780.995 (H.B. 5845)
780.997 (H.B. 5846)

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

In total, the bills would have a nominal fiscal impact on State government and no fiscal impact on local units of government. The bills would effectively transfer the Michigan Indigent Defense Commission from the Judiciary to the Department of Licensing and Regulatory Affairs. It is assumed that the financial resources used to support the Commission would be transferred as well.

Date Completed: 12-13-16

Fiscal Analyst: Josh Sefton

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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.