

## **PROHIBIT USE OF PROFESSIONAL AUTHORITY TO PREVENT REPORT OF CERTAIN CRIMES**

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**House Bill 5537 (reported from committee as substitute H-1)  
Sponsor: Rep. Klint Kesto**

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

**House Bill 5982 (reported from committee w/o amendment)  
Sponsor: Rep. Sara Cambensy**

**Committee: Law and Justice  
Complete to 5-24-18**

### **SUMMARY:**

House Bills 5537 and 5982 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 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 not more than 1 year, a fine of not more than \$1,000, or both. If the violation involves committing or attempting to commit a crime or a threat to kill or injure any person or to cause property damage, then the violation is a felony punishable by imprisonment for up to 10 years, a fine of up to \$20,000, or both.

House Bill 5537 would amend Section 483a to prohibit a person from intentionally using his or her professional position of authority over another person to prevent or attempt to prevent the 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 CSC in the first, second, or third degree)

MCL 750.483a

House Bill 5982 would add Section 478b to the 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 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 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 1 year, a fine of up to \$1,000, or both.

Proposed MCL 750.478b

Each bill would take effect 90 days after being enacted.

#### **FISCAL IMPACT:**

House Bill 5537 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 and/or local misdemeanor probation supervision. 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 2017, the average cost of prison incarceration in a state facility was roughly \$37,000 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole and felony probation supervision averaged about \$3,600 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 the amount of additional court-imposed fee revenue generated. Any increase in penal fine revenue would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

House Bill 5982 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. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. 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 the amount of additional court-imposed fee revenue generated. Any increase in penal fine revenue would increase funding for local libraries, which are the constitutionally designated recipients of those revenues.

**POSITIONS:**

The following organizations indicated support for HB 5537:

- Michigan Domestic and Sexual Violence Prevention and Treatment Board (5-22-18)
- Michigan State Police (4-18-18)
- Department of Attorney General (4-17-18)
- American Association of University Women (4-18-18)
- Michigan Catholic Conference (4-18-18)
- Michigan Coalition to End Domestic and Sexual Violence (5-22-18)

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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.