



Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 5783 (Substitute H-3 as reported without amendment)
House Bill 5784 (Substitute H-1 as reported without amendment)
House Bill 5793 (Substitute H-1 as reported without amendment)
Sponsor: Representative Mary Whiteford (H.B. 5783)
Representative Roger Hauck (H.B. 5784)
Representative Lana Theis (H.B. 5793)

House Committee: Law and Justice
Senate Committee: Judiciary

CONTENT

House Bill 5783 (H-3) would amend the Public Health Code to do the following:

- Require a health profession licensee to indicate in a patient's medical record that a medical service involving vaginal or anal penetration was performed unless the service met one of several circumstances.
- Require a health facility or agency to ensure that a patient's medical record stated that a medical service involving vaginal or anal penetration was performed unless the service met one of several circumstances.
- Require a health profession licensee, or a health facility or agency, to keep and retain a medical record for a service that involved vaginal or anal penetration of a patient for at least 15 years from the date of service.
- Prescribe administrative fines and criminal penalties for a violation of the documentation requirements.
- Allow a licensee or his or her personal representative, or a health facility or agency to destroy or dispose of a medical record for a service that involved vaginal or anal penetration of a patient only after maintaining it for 15 years.
- Require various health profession boards to create a document that provided guidance to licensees on generally accepted standards of practice for services involving vaginal or anal penetration.

House Bill 5793 (H-1) would amend the Public Health Code to do the following:

- Prohibit a licensee or registrant from performing on a patient who was a minor a medical treatment, procedure, or examination that involved vaginal or anal penetration unless it was within the scope of the licensee's or registrant's practice, a medical assistant or another licensee was present in the room, and the minor's parent or guardian gave his or her consent.
- Specify circumstances under which the prohibition would not apply, such as the treatment or procedure was necessary and associated with a medical emergency.
- Prescribe felony penalties for a violation.
- Require the Department of Licensing and Regulatory Affairs (LARA) to create a standardized consent form to be used by a licensee or registrant who provided to a minor patient a medical treatment, procedure, or examination that involved vaginal or anal penetration.
- Require LARA to make the form publicly available on its website.

House Bill 5784 (H-1) would amend the sentencing guidelines in the Code of Criminal Procedure to include the felonies proposed by House Bill 5783 (H-3) and House Bill 5793 (H-1).

MCL 333.16213 et al. (H.B. 5783)
MCL 777.13n (H.B. 5784)
Proposed MCL 333.16279 & 333.16279a (H.B. 5793)

Legislative Analyst: Jeff Mann

FISCAL IMPACT

House Bills 5783 (H-3) and 5793 (H-1) would have a minimal fiscal impact on the Department of Licensing and Regulatory Affairs. It is probable that the costs of performing the required administrative and investigative activities, as well as creating and updating consent forms, would be covered by existing appropriations to the Department. Given the likely low number of violations of the proposed documentation and record retention requirements, the revenue generated from the proposed administrative fines would likely be negligible.

The bills' criminal penalties would have a negative fiscal impact on the State and local government. More misdemeanor and felony arrests and convictions could increase resource demands on law enforcement, court systems, community supervision, jails, and correctional facilities. The average cost to State government for felony probation supervision is approximately \$3,024 per probationer per year. For any increase in prison intakes, in the short term, the marginal cost to State government is approximately \$3,764 per prisoner per year. Any associated increase in penal fine revenue increases funding to public libraries.

House Bill 5784 (H-1) would have no fiscal impact on local government and an indeterminate fiscal impact on the State, in light of the Michigan Supreme Court's July 2015 opinion in *People v. Lockridge*, in which the Court ruled that the sentencing guidelines are advisory for all cases. This means that the addition to the guidelines under the bill would not be compulsory for the sentencing judge. As penalties for felony convictions vary, the fiscal impact of any given felony conviction depends on judicial decisions.

Date Completed: 6-6-18

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