Legislative Analysis

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PENALTIES FOR CERTAIN CRIMES AGAINST HEALTH AND HUMAN SERVICES WORKERS

House Bill 5684 as introduced
Sponsor: Rep. Phil Green

House Bill 5685 as introduced
Sponsor: Rep. Kimberly Edwards

House Bill 5686 as introduced
Sponsor: Rep. John R. Roth

Committee: Judiciary
Complete to 6-9-26

SUMMARY:

The bills would modify existing penalties and create new penalties for threatening, intimidating, or harassing certain contractors (House Bill 5684) and employees (House Bill 5685) of the Department of Health and Human Services (DHHS), as well as add the proposed felonies to the sentencing guidelines (House Bill 5686).

House Bill 5684 would amend the Michigan Penal Code to create new penalties for certain crimes committed against ***DHHS designated caregivers***, which would be defined as any of the following individuals, whether or not the individual receives financial compensation for care rendered:

- A foster parent.
- A kinship caregiver.
- Fictive kin.
- An adoptive parent of a child formerly in foster care.

Under the bill, an individual who does any of the following because of another individual's status as a DHHS designated caregiver would be guilty of a misdemeanor punishable by imprisonment for up to one year, a fine of up to $1,000, or both:

- Communicates to any individual a threat that the individual will physically harm a DHHD designated caregiver.
- ***Harasses*** a DHHS designated caregiver.
- ***Intimidates*** a DHHS designated caregiver.

The bill would also provide for the following enhanced penalties for the assault or assault and battery of an individual who is performing their duties as a DHHS designated caregiver or because of the individual's status as a DHHS designated caregiver:

- For a violation that causes the DHHS designated caregiver any physical injury, the individual would be guilty of a felony punishable by imprisonment for up to two years, a fine of up to $1,000, or both.

- For a violation that causes the DHHS designated caregiver ***serious impairment of a body function***, the individual would be guilty of a felony punishable by imprisonment for up to two years, a fine of at least $1,000 but not more than $5,000, or both.

  Serious impairment of a body function means that term as defined in section 58c of the Michigan Vehicle Code, where it includes, but is not limited to, one or more of the following:

  - Loss of a limb or loss of use of a limb.
  - Loss of a foot, hand, finger, or thumb or loss of us of a foot, hand, finger, or thumb.
  - Loss of an eye or ear or loss of use of an eye or ear.
  - Loss or substantial impairment of a bodily function.
  - Serious visible disfigurement.
  - A comatose state that lasts for more than three days.
  - Measurable brain or mental impairment.
  - A skull fracture or other serious bone fracture.
  - Subdural hemorrhage or subdural hematoma.
  - Loss of an organ.

  Harass would mean conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact that would cause a reasonable individual to suffer emotional distress and that actually causes the victim to suffer emotional distress.

  Intimidate would mean a willful course of conduct involving harassment of another individual that is intended to cause the individual to fear physical injury, that would cause a reasonable individual to fear physical injury, and that actually causes the individual to fear physical injury.

The definitions of "harass" and "intimidate" would not include constitutionally protected activity or conduct that serves a legitimate purpose.

The bill cannot take effect unless House Bill 5685 is also enacted.

Proposed MCL 750.81f

House Bill 5685 would amend the Michigan Penal Code to revise the existing criminal penalties for certain crimes committed against DHHS employees and employees of private agencies under contract with DHHS under the Social Welfare Act (collectively "contractors"),[1] as well as to create new penalties similar to those proposed by House Bill 5684.

Currently, the code prohibits threatening a person because of that person's status as a DHHS employee, and violations are considered misdemeanors punishable by imprisonment for up to one year, a fine of up to $1,000, or both. The bill would expand this provision to newly include

[1] https://www.legislature.mi.gov/Laws/MCL?objectName=MCL-400-14F

DHHS contractors, as well as to prohibit and penalize *intimidating* or *harassing* DHHS employees and contractors.[2]

The code also contains additional criminal penalties for assault or assault and battery of an individual while the individual is performing their duties as a DHHS employee or because of the individual's status as a DHHS employee. The bill would expand these provisions to also cover DHHS contractors. Existing penalties would remain unchanged and would punish violations as follows:[3]

- For a violation that causes the DHHS employee or contractor any physical injury, the individual is guilty of a felony punishable by imprisonment for up to two years, a fine of up to $1,000, or both.
- For a violation that causes the DHHS employee or contractor serious impairment of a body function (as defined above), the individual is guilty of a felony punishable by imprisonment for up to five years, a fine of up to $1,000, or both.

MCL 750.81c

House Bill 5686 would amend the sentencing guidelines in the Code of Criminal Procedure to add the following felonies proposed by House Bills 5684 and 5685:

- Assault on a DHHS designated caregiver causing physical injury would be a Class G felony against a person with a maximum term of imprisonment of two years.
- Assault on a DHHS designated caregiver causing serious impairment of a body function would be a Class E felony against a person with a maximum term of imprisonment of five years.
- Assault and battery of a DHHS employee or contractor causing physical injury would be a Class G felony against a person with a maximum term of imprisonment of two years.
- Assault and battery of a DHHS employee or contractor causing serious impairment of a body function would be a Class E felony against a person with a maximum term of imprisonment of five years.

The bill cannot take effect unless House Bills 5684 and 5685 are also both enacted.

MCL 777.16d

Each bill would take effect 90 days after its enactment.

FISCAL IMPACT:

House Bills 5684 and 5685 would have an indeterminate fiscal impact on the state and on local units of government. Under the bills, an individual who communicates a threat to harm, intimidates, or harasses a DHHS-designated caregiver, an employee of DHHS, or an employee of a private agency under contract with DHHS, would be guilty of a misdemeanor punishable by imprisonment for up to one year, or a fine of up to $1,000, or both. An individual who

[2] The terms *intimidate* and *harass* would be defined as they are in House Bill 5684 and, similarly, would not include constitutionally protected activity or conduct that serves a legitimate purpose.

[3] A conviction or sentence imposed for a violation of section 81c does not preclude a conviction or sentence for a violation of any other applicable law.

assaults or assaults and batters a DHHS-designated caregiver, an employee of DHHS, or an employee of a private agency under contract with DHHS, would be guilty of a felony punishable by imprisonment for up to two years, or a fine of up to $1,000, or both. An individual who assaults or assaults and batters and causes serious impairment of a body function would be guilty of a felony punishable by imprisonment for up to five years, or a fine of not less than $1,000 or more than $5,000, or both. Misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision. Costs of local incarceration in county jails and local misdemeanor probation supervision, and how those costs are financed, vary by jurisdiction. New felony convictions would result in increased costs related to state prisons and state parole supervision. In fiscal year 2025, the average cost of prison incarceration in a state facility was roughly $48,100 per prisoner, a figure that includes various fixed administrative and operational costs. State costs for parole 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 bills affected court caseloads and related administrative costs. Because there is no practical way to determine the number of violations that would occur, an estimate of the amount of costs related county jails or state prisons, local or state supervision, or local courts cannot be made.

House Bill 5686 is a companion bill to House Bills 5684 and 5685. The bill would amend the sentencing guidelines chapter of the Code of Criminal Procedure to include the proposed new felonies of assault or assault and battery against a DHHS-designated caregiver, an employee of DHHS, or an employee of a private agency under contract with DHHS, and assault or assault and battery against a DHHS-designated caregiver, an employee of DHHS, or an employee of a private agency under contract with DHHS that causes serious impairment of a body function as Class G and E felonies, respectively. The crimes would be crimes against a person and would be punishable by a statutory maximum of two years or five years, respectively. House Bill 5686 would not have a direct fiscal impact on the state or on local units of government.

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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.